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ORIAL

CORN COUNTRY

The results in last week's Iowa caucuses can be interpreted as a triumph of the "old politics"—that is, Jimmy Carter politics, ca. 1976. The mechanics of those politics were evident on the Republican side in the victory of George Bush, who spent thirty-one days in the state, mulching the grass roots and salving local pride, in contrast to an absentee Ronald Reagan. Bush, whose pronouncements always come out like an executive's résumé, did everything but promise he would never lie to us. Shades of the unknown Georgian—governor, businessman, engineer, "nuclear physicist"—selling "competency." Iowa Democrats, meanwhile, cast their votes for the old and the newly "Presidential" Jimmy Carter in mixed patriotic and nostalgic homage.

The Iowa caucus is at best an early road sign (in the tradition of "3,000 Miles to Wall Drug"), but this year's was a portent that, as Alan Wolfe writes on page 108, the national mood is congealing into an even older cold-war politics. Sure enough, in his State of the Union speech two days later, the President announced the "Carter Doctrine" and registration for the draft (on which, more next week). Add to Wolfe's litany of Carter political windfalls from the Iranian and Afghanistan crises the prospect of a steep rise in defense spending restoring a febrile flush of prosperity to the economy.

The prospects for a genuine national debate this year look dim. On the Republican side, only John Anderson questions defense spending and jettisoning SALT II, but he is, so far, a relative unknown. The myth of Edward Kennedy's popularity seems to have been conclusively shattered and the other pillar of his candidacy is thus far invisible—the articulation of an alternative policy agenda for those disillusioned with the Carter leadership. All we know now is that Jimmy Carter grafted the patriotic aura of a cold-war Presidency onto the spirit of '76 to create a hybrid strain of Iowa political corn.

BILL DOUGLAS
Sidney Zion

MOYNIHAN & THE BLACKS
Nathan Glazer
Herbert Gutman

CALIFORNIA'S HOUSING BOOM
Carey McWilliams

CARTER'S AFGHANISTAN WINDFALL
Alan Wolfe

LIBEL AND FICTION
George Slaff
Clancy Sigal

'THE BRETHREN'
Michael Meltsner
Aryeh Neier

THE U.S.-IRAN IMPASSE

NEEDED: A LITTLE HELP FROM FRIENDS

MICHAEL DOYLE
and RICHARD FALK

Iran and America appear to be locked in a deadly, bilateral confrontation from which neither can escape on its own. Yet their friends in the First World and in the Third World stand on the sidelines. A resolution of the crisis is imperative; it is time for Iran's and America's friends to do more than make sympathetic noises and attempt to minimize the effects of the crisis on themselves. If Iran's and America's allies are to rescue themselves from the impending consequences of the crisis, they must rescue Iran and the United States from their present impasse.

Despite the hopes fanned intermittently by conciliatory statements from Iran's foreign ministers, Ayatollah Khomeini may yet, if further efforts fail, place American hostages on trial. President Carter remains equally adamant in demanding the unconditional release of the hostages. At the end of these diverging paths lie the trial of innocent Americans (including, perhaps, the imprisonment or even execution of Central Intelligence agents stationed at the embassy) and economic sanctions causing the suffering of thousands of innocent Iranians who have little influence on the policies of Khomeini. Observers warn of an increasingly xenophobic Islamic fundamentalism, escalating energy prices, the threat of a reintroduction of superpower rivalry in the Middle East and elsewhere if the Soviet Union breaks an American embargo and supports Iran, and rising tensions in the Organization for Economic Cooperation and Development as Japan, Italy and other states resist a full embargo and Britain, Germany and France feel pressured into

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AN EXCHANGE.

SCHOLARLY STYLE?

Cambridge, Mass.

I respect Herbert G. Gutman for his monumental scholarship on the black family under slavery and after ["Black History Seduced and Abandoned," *The Nation*, Sept. 22, 1979]. But I don't like his style in controversy. Thus, he is able to criticize Daniel P. Moynihan and me for what we said fourteen or sixteen years ago about the relationship between slavery and the black family, but he is delicately silent on what our sources on these connections were. They were, at the time of *Beyond the Melting Pot* (1963) and *The Negro Family: The Case for National Action* (1965), principally the work of the (black) sociologist E. Franklin Frazier. Gutman quotes remarks of mine on what slavery did to the Negro family: These remarks are from a review of Stanley Elkins's *Slavery* (1959), later used by the University of Chicago Press as an introduction to the paperback edition. After all, those of us who do not do first-hand historical research in the primary sources are dependent on what scholars have told us about the past.

It is odd that Gutman does not direct his artillery toward Frazier and Elkins, and equally odd that their names are not even mentioned. Gutman seems to want a view of the Negro family that did not even appear in book form until 1976 (in his *The Black Family in Slavery and Freedom, 1750-1925*), and that was itself—as he writes in the introduction to this book—"stimulated by the bitter public and academic controversy surrounding Daniel P. Moynihan's *The Negro Family in America* . . ." to have affected the work that had stimulated it. In that introduction, he did point out the relevance of the work of Frazier and Elkins: "Drawing upon the influential historical studies of such writers as E. Franklin Frazier and Stanley M. Elkins, Moynihan . . . rooted those difficulties [of poor blacks in the urban North] in a historical process that had its origins in the enslavement of seventeenth- and eighteenth-century Africans." And he goes on: "Moynihan, it should be emphasized, had not created a fictive history; he reported what was then conventional academic wisdom."

Quite so. Nevertheless, he is to be pilloried for this. But now we move on to the present, and one may still ask: If the poor black family was, as described by Gutman and others, solidly fixed in a supportive network of extended kin—and I do not dispute it—then what could explain what has been happening for the past twenty years? Here Gutman is remarkably silent, in his book and his article. He writes, the "familial and kin connections [of black families] have been unconscionably strained in the past four decades," but certainly this strain should have been considerably reduced in the years since *The Black Family* report, when we have seen major legislation and programs against discrimination instituted, a dramatic reduction in prejudice, a great increase in the number of blacks in good white-collar and professional jobs, a huge increase in blacks going to college. Yet it is just during these past fifteen years that we have seen great increases in black children born out of wedlock and in broken black nuclear families. Whatever the strengths of the black family and kin networks, no one argues that there is no problem when perhaps half the black children being born come into family situations in which there is no assurance of a stable relationship with the father, the assurance that for the rest of the society is symbolized by the commitment of marriage. Gutman and other critics of those of us who have said this is a problem cannot have it both ways; they cannot insist there is no problem because of the strengths of black family and kin networks, and then say there is a terrible problem and that "family and kin connections have been unconscionably strained." Clearly there has been more ingenious adaptation to this strain than bare statistics describing high rates of illegitimacy and family breakup suggest. But the statistics also express a reality, one in which many children are being raised, yes, in a "tangle of pathology."

When I asked, in a 1976 *New York Times* Op-Ed-page article (solicited by the editors) on Gutman's book, "What bearing does this rewriting of black history have for social policy today?" I was not "trivializing" this research but trying to spur Gutman and others who lean on this newer research into addressing the issues of the present. I agree that, whatever the contribution of the distant past to the situation of the poor black urban family, the contribution of the present is more significant. But those—like Gutman—who insist on this don't tell us *what* the significance of the present for the disastrous condition of the poor black family is. The significance of the present cannot possibly be, as they sometimes suggest, that opportunities for poor urban blacks are now fewer—never have there been more. I believe the evidence strongly suggests that the black family is being damaged now basically by misguided social policies, principally our welfare policies, that create a situation in which stable family life and normal work find massive competition. George Gilder's *Visible Man* describes how devastating this competition is for the Northern poor urban black family. My question was not a rhetorical one: It was an effort to direct attention to a continuing plague, one spread by contemporary social policies, but one to which it is also very difficult to find alternatives. Without continuing the discussion of the poor black family directly, Moynihan certainly has not been derelict in trying to find alternatives to social policies that now seem to be the main continuing cause of a bad situation. And I have given a good deal of my time, too, to pondering what

(Continued on Page 116)

F.B.I. SHREDDER STOPPED

The Nation and the other plaintiffs who joined in a lawsuit sponsored by the Fund for Open Information and Accountability that challenged the arbitrary destruction of Federal Bureau of Investigation files by the National Archives can claim victory. In a precedent-setting decision, Federal District Judge Harold H. Greene ruled that millions of reports the Bureau has compiled over the years "belong to the American people and should be accessible to them." He held invalid the old procedure, under which routine F.B.I. requests for file destruction were carried out by the National Archives, and ordered that new procedures be drawn up, in accordance with standards set down in his opinion, which calls for supervision of F.B.I. record shredding by archivists and historians.

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EDITORIALS.

Chilling Libel

Without presuming to pass on the facts of *Bindrim* v. *Mitchell and Doubleday* (see George Slaff's essay on page 104 and Clancy Sigal's rejoinder), our sympathies are with the defense. Although that case dealt with an alleged literary libel, it is related to a broader trend—the recent upsurge of defamation actions used as harassment by cults like the Church of Scientology, Synanon and the U.S. Labor Party. All these groups, whose politics are extreme right wing, have made libel suits their stock response to damaging disclosures by investigative reporters as well as public criticism based on the revelations of defectors. The U.S. Labor Party, for example, has sued the Anti-Defamation League for $26 million and *Our Town*, a New York City weekly, for $20 million, only two of a series of such actions.

The cult libel suits may be seen as an extension of the cultist phenomenon itself. The groups and their leaders are the shining knights of the Truth. Any criticism is thus to be seen as a vile, intolerable attack, a blend of heresy and sacrilege which must be promptly redressed. All too frequently, such redress is accompanied by harassing tactics: advance threats to editors, dirty tricks, warning phone calls to authors ("you are on our hit list"), entrapment and worse. In many instances, lawyers who are sect adherents devote full time to such litigation. Such suits have already caused a perceptible reluctance by the media to deal critically with litigious groups and individuals. Another and more effective form of prior restraint is a judicial order in out-of-court settlement agreements compelling the defendants not to disparage the aggrieved cult in the future.

The Supreme Court's libel decisions have created a climate that encourages more widespread resort to libel actions. And the self-censorship fallout is distressing. Mainstream publishers, never particularly resolute in the face of even a remote threat of a lawsuit (lawyers charge so much these days), have become more skittish and finicky about insisting on caution even in areas long protected by the decision in the renowned *New York Times* v. *Sullivan* case. There is no question that the First Amendment protections of that decision are being increasingly eroded by a swelling flood of libel suits—of which *Bindrim* v. *Mitchell and Doubleday* is a particularly destructive example in the once cosanct area of artistic freedom.

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Mobil's Fables

The Mobil Oil Corporation's public relations philosophy requires that it act as a corporate Medici. A healthy chunk of the $20 million it budgets annually for engineering public consent to high profits (up 78 percent in 1979) is spent in support of such bonbons as *Masterpiece Theatre*. The trouble with this medium is that it permits no message beyond a plummy British voice announcing "*Masterpiece Theatre* is a presentation of the Mobil Oil Corporation." Mobil, however, bristles with opinions, which is why it takes out space in op-ed pages across the nation (see Robert Sherrill, "Mobil News That's Fit to Print," *The Nation*, January 27, 1979). These "idea ads" relentlessly pile-drive home the same message week after week: oil company profits *aren't* too high, government regulation of the industry *is* bad, and so on.

We suspect that Mobil has always itched for bigger game—specifically, the slouching, semisomnolent television-audience beast; sharing pipe dreams with the other op-eds is a highly restricted way to win friends and influence voters. Mobil has indeed tried to buy time on network TV for advocacy ads, but the networks have always turned it down, ostensibly out of fear of a rash of challenges under the Federal Communication Commission's fairness doctrine. Mobil even offered to pay for time for an opposing view, but the networks stand firm.

With the presentation on off-network stations last week of the new series "Edward and Mrs. Simpson," Mobil has at last broken through to the mass audience. Although newspaper ads for the series promise "No commercial interruptions," they say nothing about commercial prologues and epilogues—i.e., Mobil commercials. And these commercials aren't selling gasoline. They are selling the familiar ideas that oil company profits *aren't* too high, government regulation *is* bad, and so on.

The ads are couched in fable form, complete with pseudo-Aesopian moral. As lavishly produced as they are tendentiously written, the commercials use live dancers from the Pilobolus and Lar Lubovich dance companies, plus animation. One fable is about an elephant who is ejected from a water hole by the other animals because of his elephant-size thirst. "I consume more because I need it," he explains. Matters become somewhat confused after this, but proceed with elephantine heavy-footedness to the moral: "Meeting America's energy needs is a big job. If American producers don't make profits proportionate to their size, they can't do it." In another of these coyly designated "Fables for Now," an emperor bans whatever he can't see, which includes some of the great ideas of Western man, viz., truth, beauty and, well, profits. Moral: "A profit is not without honor when we need more oil—and that's no fable."

It's no fable either that oil company profits are controversial and that a House-Senate conference committee is currently ironing out the wrinkles in the windfall-profits bill, including the knotty issue of whether the big oil companies should bear a heavier tax burden than the independents. Thus, Mobil's message would seem to involve "a controversial issue of public importance" and constitute "a direct and substantial commentary," to cite a couple of the criteria enunciated by the F.C.C. in its 1974 policy statement on the fairness doctrine. True, the fables mention no specific legislation, but we can only emulate the F.C.C. in citing the relevant observation of Prof. Louis Jaffe:

> . . . the advertiser may avoid the explicit precisely to foreclose a claim of rebuttal, or because he believes the subliminal is more effective. It should suffice to trigger the [fairness] doctrine that by implication he intends to speak to a current publicly acknowledged controversy.

We note that under F.C.C. procedure, "regular viewers" of WNEW-TV in New York or of any of the other independent channels airing "Edward and Mrs. Simpson" may question whether the station has complied with the F.C.C. fairness-doctrine requirement by affording "a 'reasonable opportunity' in [its] overall programming for the presentation of contrasting points of view," specifically the views that oil company profits are inordinately high and that the companies should be regulated, if not nationalized.* If complainants receive no satisfaction from the station, they may then take their objections to the F.C.C. The public airwaves should not be left to the slick manipulations of overweening corporate wealth. And that's no fable.

Bill Douglas

There is a dream and a reality in America, and though they lie on the same bed they are never expected to kiss. The dream is Jimmy Stewart out of Frank Capra, and it says, Be True to Yourself. The reality is Sam Rayburn out of the World of Men, and it says, To Get Along, Go Along. As children we are instructed in the dream, as adults in the reality. We are never taught to forget the dream, but are asked instead to ignore the contradiction. The end becomes a Rhinestone Mean: To get along with the dream, go along with the reality.

Bill Douglas treated the reality as dirt under his feet, and rode the dream straight to the top. That this made him a unique phenomenon is one of the more melancholy facts of the twentieth century. Surely nothing would have astonished and enraged the Framers more than that there was only one Bill Douglas—unless it is that there will probably never be another.

"I am really a pretty conservative fellow from the old school," he said when F.D.R. appointed him to the Court. The line was widely resurrected as irony when the stroke forced him to quit in 1975, after a record-breaking thirty-six years on the High Bench. Had he not, it was pointedly asked, become the most flamboyant liberal ever to sit there? It wasn't Douglas who changed, but the meaning of words, which was distorted just as the Bill of Rights is today

*On its regular news show following the airing of the first episode of the series, WNEW devoted a long segment to a further expounding of Mobil's views by its chairman, Rawleigh Warner Jr.—hardly a "contrasting" viewpoint.

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distorted by the Burger Court. The true meaning of conservative, the first dictionary definition, is a synonym for preservative. To conserve, to preserve, is to "keep from injury or destruction; defend from evil; protect; save." What better way to describe William O. Douglas's glorious career on the Supreme Court than that it was fiercely dedicated—against all the winds that blew—to the conservation, the preservation, of the Constitution?

A conservative fellow from the old school. Philadelphia, class of 1776. Can't you just see Bill there, trading ideas, swapping stories, passing the flask with Jefferson, Madison, Franklin, Sam Adams? Now picture Warren Burger, William Rehnquist and the rest of that passel of statists who make up the "conservative" majority on today's Court. Is there anyone out there who thinks they would have been allowed past the rope?

Other modern-day Justices would have been more or less at home in Philadelphia—Louis Brandeis, Hugo Black, Earl Warren, William Brennan, Frank Murphy, Wiley Rutledge, Harlan Stone, John Harlan, maybe another handful. But Bill would have fit best. He could sit a horse, fish a stream, climb a mountain with any of the frontiersmen. And looked the part—perhaps more as he aged, when the weathered, ruggedly lined face added rather to the impression of strength than years. He looked so much like his pal Spencer Tracy that he was often mistaken for him; later, Casey Stengel was mistaken for *him*. He was a lanky six-footer, with direct, blue-gray eyes that seemed always to be taking the measure of pose and pretense; in other words, a straight-away guy you could trust but better not cross.

The Founders would have been comfortable with his language: salty, to-the-jugular, often profane. Most important, they'd have loved his elegantly blunt definition of the Great Charter: "The Constitution was designed to take the government off the backs of the people." Yet it was over that truism that the great legal war was fought during Douglas's time on the Court. He won many battles, but at his death the result was in doubt, to say the least. Liberties thought by the Framers to have been immutably writ in the Bill of Rights are now in the hands of men who appear to believe that the essential purpose of the Supreme Court is to keep the people off the back of the government.

"His life, like his law, is free," Yale law professor Fred Rodell wrote of Douglas. For both reasons he was often under siege. Once in the 1950s, while Douglas was fighting Harry Truman's cold war (off the Court) and McCarthyism (on the Court), the great populist, Senator William Langer, put his arm around Bill and said: "Douglas, they have thrown several buckets of shit over you. But by God, none of it stuck. And I am proud." They tried three times to impeach him: in 1953, when he stayed the execution of the Rosenbergs; in 1966, when he married 23-year-old Cathleen Heffernan, now his widow, and in 1970. The last was the most serious, because it followed Abe Fortas's forced resignation from the Court and was thus part of the Nixon Gang's furious effort to deal a quick deathblow to civil liberties. Gerald Ford, the House minority leader, led the egregious attack . . . and again, none of it stuck.

The academics continued to deny him the pantheon. In 1972, the Association of American Law Schools polled sixty-five people: law school deans, law professors and professors of history and political science. Asked to name the Hall of Fame of the Supreme Court, the professors came up with twelve stalwarts. Douglas wasn't even close. Nor would he be close today. The rap is that he was "result-oriented." A dozen years ago, I asked Douglas about it. His answer: "At the beginning of every term, I offer to bet the Brethren that I can call their votes on 98 percent of the cases. I get no takers. Once you're here for a while it's easy to predict how you'll go, the issues aren't that different. The academics call it 'result-oriented' when they don't like the result. Otherwise it's 'scholarship.' "

In the event, they compliment him by their contempt. "I had my own dreams," he once wrote, "and they were dependent solely on me, not on the whim or caprice of another." They tell me he's gone now. Well, as John O'Hara said when Gershwin got away, I don't have to believe it if I don't want to.

SIDNEY ZION

Sidney Zion is a lawyer and journalist who is a regular contributor to The New York Times Magazine.

Follow-Up

And now it's time for another chapter in the continuing saga of Henry Kissinger's relationship with the Federal Bureau of Investigation back in 1953. This is the series that asks the question, Did he or didn't he call the Bureau's Boston Field Office and report that he had opened some suspicious mail sent to a participant in Harvard's Summer International Seminar, which he was conducting? In the November 10, 1979, issue of *The Nation*, readers will recall, Prof. Sigmund Diamond reported that he did—and produced a copy of an F.B.I. memorandum written at the time reporting Kissinger's call and his offer to cooperate further with the Bureau. A tergiversation or two later, Kissinger, through his aide William Hyland, and directly to *Daily News* columnist Ken Auletta, made a final and definitive denial resting on two grounds: first, he did not remember calling the F.B.I., and second, the Bureau could not have released the memorandum Diamond obtained (which was reproduced in part in *The Nation*) under a Freedom of Information Act request because the act does not permit the release of names in F.B.I. files to third parties.

Undaunted, we responded that we would make our own F.O.I.A. request for the same document in order to demonstrate once and for all that it existed and was available in the way Diamond obtained it. Our request was duly filed, and we can now report that we have received the very document that Diamond received, plus a copy of the suspicious letter sent to Kissinger's students. We await a further response from Dr. Kissinger. In the event none is received, we will consider the case closed—as they say in the F.B.I.

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VARIATIONS

CALVIN TRILLIN

On a Wednesday afternoon just before Christmas, the wall clock in our kitchen began to run backward. I'm not talking about a literary device here; I'm talking about a clock. Suddenly, this clock's sweep second hand was moving in a direction that can only be described as counterclockwise. There were witnesses. My wife was having a meeting in the living room—part of what seems to be an effort to make our house competitive with the Sheraton Convention Center, presumably so that we may someday take a write-off on our ashtrays. The washing machine repairman was present. In fact, there are those who say that he had something to do with the clock's sudden switch in direction, since he was fiddling with the circuit breakers upstairs. But the washing machine repairman is almost always at our house, fiddling with the circuit breakers upstairs. He likes to fiddle with circuit breakers. The only piece of modern technology that repels him is the automatic washer.

The wall clock in our kitchen does not have numbers. It has letters that spell out Hecker's Flour, except for the apostrophe. Having a clock with only letters on it means that my daughters, before they learned to tell time, would occasionally say something like "the little hand's on the R and the big hand is just past the C," but I do not consider that a strong disadvantage in a clock. The face of our clock can be illuminated by two light bulbs with a glow so strong that I used to assume pilots were using it at night to take a bead on La Guardia. We no longer keep light bulbs in the clock, because my daughters say that would be a waste of energy. As I interpret my daughters' views on the energy crisis, they believe that a patriotic American household should use no energy except that required to power a computer game called Merlin and a Tyco Super-Dooper-Double-Looper Auto Track. In addition to knowing a lot about how much fossil fuel we're wasting, my daughters are already learned on the subject of cholesterol in Italian sausage and carcinogens in beer. Their command of a broad range of such information, in fact, has made it obvious to me why some children in our public elementary schools have difficulty reading and writing: their teachers spend most of the day teaching them how to depress their parents.

Our clock was a gift from Pat Uhlmann, a friend of ours from Kansas City. Pat is very conservative politically—perhaps the most politically conservative man ever to be mentioned with affection in a left-wing magazine—but he is a left-liberal when it comes to distributing clocks and other handouts, even to the sort of people who have made it clear by now that they have no intention of pulling themselves up by their own bootstraps. Having once seen Pat remove and offer me a necktie that my wife (though not I) had admired, I think I can honestly say that he is generous to a fault. When the clock started running backward, we may have been overheard making a few innocent remarks about the possibility that its behavior simply reflected the direction in which Pat sometimes seems to want the world to go. A few days later, we received a letter from Pat saying, "Even a stopped clock is right twice a day, which is more than I can say for you." Our clock was not stopped, of course; it was running backward.

One morning at breakfast, my younger daughter asked me if it would soon be yesterday. I told her it would be if we were talking about a literary device rather than a clock. She asked me why the clock was running backward, and I told her to pay more attention to her cereal-eating, my alternative being to admit to her that the only explanation I had been able to think of was that our clock had been invaded by a dybbuk, a bloody-minded cousin of the dybbuk in our washing machine. It happened to be a time when I was feeling the weight of my ignorance more acutely than usual. I had only just learned who Donna Summer was. I had not distinguished myself in the assembling of the Tyco Super-Dooper-Double-Looper Auto Track. I couldn't seem to come up with the name of the Portuguese Prime Minister with any consistency. All in all, I would have preferred a clock that ran in the conventional direction. Not knowing enough Yiddish to speak to the dybbuk in his native tongue, I tried to reason quietly with him in what I perceived to be English of Yiddish inflection ("So go! I'll pack you a lunch"), but the clock continued to run backward.

In this mood, I went to my next-door neighbor's for a cup of seasonal cheer, and met a friend who said she was worried about the world because Afghanistan had the H-bomb. This was several weeks before the Russian adventure, and Afghanistan was not a country often mentioned when holiday discussions ventured from the Brandy Alexander recipe toward sophisticated weapons systems.

"Afghanistan does not have the H-bomb," I assured her.

"They've got it," she said. "I read it in *The Times*."

"There's a progression in these matters," I said. "First a country gets a drugstore. Then it gets the H-bomb."

"I saw it in *The Times*," she repeated. "The leader of Afghanistan has slicked-down hair and one of those waxed mustaches. I know he wouldn't use it right."

"General Zia!" I said. "That's Pakistan."

She was comforted, and I felt more in control for a while—until I began to wonder what was so comforting about Pakistan's having the H-bomb. Would they use it right? What was the right way to use it?

It was in this mood that I happened to mention our clock to Noam Spanier, who goes to Stuyvesant High School—a seat of learning so high-powered that it offers courses other than Serum Cholesterol 121 and Ravages of Booze 202.

"Your polarity is reversed," Noam said.

"Watch your mouth, kid," I said, taking a quick check of my clothing.

We went next door. Noam unplugged my clock, turned the plug around, and plugged it in again. The clock began to run clockwise.

"Obviously," I said.

Noam nodded.

"It's obvious," I repeated. "You scared the hell out of the dybbuk."

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SECOND THOUGHTS

CAREY McWILLIAMS

Spending the fall term at U.C.L.A. stimulated anew my interest in Southern California: the new life styles, the growing celebrity mania, the changing media scene, the continued proliferation of cults. But what struck me most was the rather one-sided struggle by a sophisticated and knowledgeable minority to salvage some of the region's more attractive qualities from the destruction being wrought by rapacious "developers." The current boom in Los Angeles got under way around 1975, and while one hears reports of a possible decline caused by high interest rates and tight money markets, I actually saw little evidence that it had yet set in.

This latest, and wildest, of the city's booms—it is, of course, a city of booms—has been triggered by, as much as anything else, the influx of lots of money, particularly "foreign" money from the Middle East, Asia, Europe, Canada and Latin America. In Beverly Hills, there are rows of million-dollar homes; indeed, that kind of price tag excites little comment or interest. The rich want to live in West Los Angeles and environs and there is a limited amount of available land. Homeowners in Brentwood or Beverly Hills or West Los Angeles do not bother to fix a selling price for their mansions of various shapes and sizes and styles; a home in these areas is worth what some rich person is willing to pay for it. There are no norms, no standards. Buyers assume that since the supply is limited, the price will go up and up and up; most of these new buyers, moreover, pay cash, so that high interest rates are of little concern to them. With the result that inflation has become a joyous benefaction for many homeowners and most developers and real estate agents. They would not curb it if they could.

For those who remember, as I do, what Los Angeles was like in the post-World War I period—an eternity ago—or more recently after World War II, aspects of the current scene are keenly distressing. For one thing, newcomers have never understood that the environment is extremely fragile: witness landslides, brush fires, floods and earthquakes. Water is imported great distances and no new sources have been tapped. Yet subdivisions continue to be laid out in reckless disregard of environmental considerations. A familiar news photo nowadays is of the elegant home that is sliding over the cliff or that has slipped halfway down the hill. In some areas, strong, vocal homeowners' groups are waging round-the-clock struggles to keep the development mania under a measure of rational control, but, in the end, the developers seem to win most of the battles. There is always a geologist who will testify that the soil in a hillside area is firm enough to support homes.

Nowadays homes are sold, in some areas, as stocks and bonds are sold, simply to make a buck; the notion of permanency of residence is marginal. Apartments are being converted into condominiums, and renters, belatedly and not too successfully, are struggling to prevent ousters and evictions. Corporations and institutions complain of a sharply declining supply of moderately priced housing for employees. As the number of native-born or long-term residents has grown relative to newcomers, the minority that understands the environment and what is happening to it is growing in size and power; in fact, it may yet stage a statewide revolt to save California before it self-destructs.

But that day is not yet. At the moment, developers are tearing up hillsides, filling canyons, leveling hilltops and projecting new subdivisions. The stability and recognizable identity of neighborhood areas seem to have a constantly shrinking life span. New shopping centers are constructed within a few minutes auto-travel time from the shopping center that was just completed last year; as the one fills up, the other empties. "New" areas are bypassed and become old before their time. As prices soar for homes in more desirable areas, the number of jerry-built subdivisions "farther out," on the periphery of the city, increases.

Bob Gottlieb's excellent piece on "the growth machine" in Phoenix (*The Nation*, December 29, 1979), describes a similar reckless urban and suburban expansion in a desert or semiarid region that has more artificial lakes and more boats per capita than anywhere else. The scene he describes of "a snow-white column of water" being shot 560 feet in the air, at the rate of 7,000 gallons a minute, in a thirty-acre man-made lake, surrounded by desert country, is a perfect symbol of the development mania. No one objects to economic growth and development, but there is something demented about forms of development that imperil the future. What is dangerous about the growth machines in areas such as Arizona and Southern California is the illusion that development can never end and must, at any social cost, continue, wasting more acreage, consuming more water and power, all under the delusion that if water is available today, then more will be available tomorrow.

Gottlieb reports the existence in Phoenix of an overwhelming antidevelopment majority which cuts across class lines. Similarly, the number of communities in the Los Angeles area that have spawned strong community-conservation groups and organizations is growing rapidly. But it is difficult to build powerful coalitions and political alliances against destructive forms of "growth" in the absence of a consensus on what the community or region or state wants to make of its resources and the kind of society it hopes to foster. First and last, most people want to make more money. Moreover, communities are, to a degree, at the mercy of national trends; for example, the inflation in West Los Angeles was largely imported. The funds that fuel it weren't made there; newcomers brought them. Tempt homeowners with enough money and some will sell; soon an exodus is under way and just for money that buys less and less. Society's need for double-entry bookkeeping has never been greater; private gain should somehow be balanced against social losses. "Antidevelopment" is not a viable slogan but it should be self-evident—although nothing is—that the creation of reasonably stable communities of homeowners and home-dwellers is a highly desirable civic objective. Some forms of "growth" are hazardous; the damage can be irreparable.

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ARTICLES.

In Libel, Fiction Is No Defense

GEORGE SLAFF

A great deal of nonsense has been stated and written about the libel case of *Bindrim* v. *Mitchell and Doubleday* in which a $75,000 verdict for the plaintiff was upheld. The co-defendant, author Gwen Davis (Mitchell), has been trying and retrying the case in the media, picturing herself as a victim of the courts' failure to protect her First Amendment rights. The Writers Guild, the Authors League, the Association of American Publishers, and the Independent Literary Agents Association (none of them exactly disinterested) told the United States Supreme Court that "there can be no defamation" (libel) in a work of fiction, no matter how recognizable the libeled person might be, provided only that the author changed the name and *physical* characteristics and appearance of the defamed person.

The latest protest about the decision comes from *The New Republic*'s Washington Diarist, Marc Granetz (December 29, 1979), who as "editor at New Republic Books" is obviously not disinterested and who, equally obviously, has not read the record in the case.

I, too, am obviously not disinterested since I was Bindrim's counsel and together with my associate and partner, Marc Stein, tried the case and carried it through the California Court of Appeal, Supreme Court and U.S. Supreme Court. There is, however, one significant distinction between myself and virtually everyone else who has written about the case and its alleged deleterious effect on creativity—I know the record and I know what the jury, the California courts and the U.S. Supreme Court acted on. Let me, then, put the case in actual, not imagined, perspective.

For those unfamiliar with the case, the basic facts can be put simply. Dr. Paul Bindrim, a practicing clinical psychologist in Los Angeles, was, in the late 1960s, known as the originator and leading exponent of the nude encounter marathon—a twenty-hour session at which a group of approximately twenty-five men and women met, gradually shed their clothes, and, it was hoped, some of their inhibitions, and, under his direction, discussed their problems, fears, sexual hang-ups and so forth. At this time Gwen Davis (Mrs. Mitchell), a novelist, had written a best seller, *The Pretenders*, and was thinking of her next novel which, in her own words, was to be a modern *Madame Bovary*. In researching what the upper-middle-class American female did in her leisure time, she attended one of Bindrim's sessions, after assuring him that she was coming solely for therapeutic reasons and, indeed, after signing the agreement, required of all who attended, that she would not write anything about the session—something which Bindrim insisted upon in order to preserve the privacy desired by those who attended.

Within a month or so after attending the session, she signed a contract with Doubleday & Company for a novel—and for a $150,000 advance. Within four or five months thereafter she completed her novel, *Touching*, and submitted it to Doubleday. At the trial it was testified that when she handed a copy of the manuscript to a friend, a journalist who had initially advised her to attend the session, she told the friend that she was afraid Bindrim would sue her, for she "had painted a devastating portrait of him."

She had, indeed, done so. Forty-seven side-by-side comparisons between episodes in the book and actual events were put before the jury and later the Appellate Courts. These comparisons showed that Bindrim and the session were readily and reasonably identifiable and that in addition they contained libel, "the devastating portrait" upon which the suit was based. The fact that the novel changed Bindrim's name to Herford, and gave him a beard and a crop of snow-white hair, neither of which he had, did not prevent the jury from finding that Herford was Bindrim; nor did it prevent the California Court of Appeal from concluding, "There is overwhelming evidence that plaintiff [Bindrim] and 'Herford' were one."

This inescapable conclusion by the jury and the courts was made possible by the fact that Bindrim, for research and review purposes, had taped the session (with the consent of the participants), as he taped every similar session. As a result, the jury not only heard the tape recordings but, at the same time, saw the relevant excerpts from the book and transcripts from the tapes projected side by side on a screen. The Appellate Courts saw only the printed side-by-side comparison. The District Court of Appeal in its opinion set out the comparison below as one example of Bindrim's claimed libels, which it, of course, upheld.

Excerpts from *Touching*, page 126-27.

> The minister was telling us how the experience had gotten him further back to God.
>
> And all of the time he was getting closer to God, he was being moved further away from his wife, who didn't understand, she didn't understand at all. She didn't realize what was coming out of the sensitivity training sessions he was conducting in the church.
>
> He felt, he more than felt, he knew that if she didn't begin coming to the nude marathons and try to grasp what it was all about, the marriage would be over.
>
> "You better bring her to the next marathon," Simon said.
>
> "I've been trying," said the minister. "I only pray she comes."
>
> "You better do better than pray," said Simon. "You better grab her by the cunt and drag her here."
>
> "I can only try."
>
> "You can do more than try, Alex. You can grab her by the cunt.
>
> "A man with that kind of power, whether it comes from God or from his own manly strength, strength he doesn't

George Slaff has been a practicing lawyer for fifty years in New York, Washington, D.C., and California. Litigation and the Bill of Rights are among his specially favored fields.

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know he has, can drag his wife here by the fucking cunt."
"I know," Alex said softly. "I know."

Transcript of Actual Session.

"I've come a little way."
"I'd like to know about your wife. She hasn't been to a marathon?"
"No."
"Isn't interested? Has no need?"
"I don't—she did finally say that she would like to go to a standard sensitivity training session somewhere. She would be—I can't imagine her in a nude marathon. She can't imagine it."
"Why?"
"Neither could I when I first came."
"Yeh. She might. I don't know."
"It certainly would be a good idea for two reasons: one, the minor one is that you are involved here, and if she were in the same thing, and you could come to some of the couple ones, it would be helpful to you. But more than that, almost a definite recipe for breaking up a marriage is for one person to go into growth groups and sense change and grow . . ."
"I don't know."
"Boy they sure don't want that, and once they're clear they don't need that mate anymore, and they are not very patient."
"But it is true, the more I get open the more the walls are built between us. And it's becoming a fairly intelligent place, a fairly open place, doing moderate sensitivity eyeballing stuff with the kids. I use some of these techniques teaching our class work."
"Becoming more involved?"
"Yeh, involved at the same time that I am more separated from. It's a paradox again, isn't it?"
"Mmm."

As Justice Bernard Jefferson remarked in his concurring opinion in referring to this and other instances of "vulgarity purportedly used by the therapist in the novel," "I fail to see how any jury or any court could consider such crude vulgarity as *not* defaming a professional therapist to whom such vulgarity was attributed in the practice of his profession."

In his piece, Marc Granetz argues that Zelda Fitzgerald, by analogy, "legally could have socked it to Scott" and that "Katherine Mansfield and John Middleton Murry would have had a strong case against D.H. Lawrence for the 'fictional' portrayal of them in *Women in Love*" and "Nora Joyce could have had the book thrown at her husband" for his creation of Molly Bloom. But this is a parade of nonexistent and would-be atrocities on a par with the recital to the United States Supreme Court by counsel for the Writers Guild et al., of titles such as Proust's *Remembrance of Things Past*, Huxley's *Point Counter Point*, Somerset Maugham's *Cakes and Ale* and Kaufman and Hart's *The Man Who Came to Dinner*, as examples of works which would have been imperiled if the Bindrim verdict were permitted to stand. Reaching for, if not precisely a mixed metaphor, at least a rolling one, the Writers Guild and its allies told the U.S. Supreme Court that, if permitted to stand, the decision of the California courts was "a loose cannon on the deck of creativity."

It is perhaps in the same linguistic frame that one can say the Supreme Court shot that argument down.

More to the point, however, is the fact that what the interested parties and other protesters have missed in bemoaning the "chilling effect" of such a decision on past and future writers is that even in the novels and plays cited above there was no libeling, no defamation of living, recognizable characters.

The Bindrim decision does not in the slightest inhibit any writer—artist, hack or in-between—from drawing on living people for fictional portrayal so long as those who are depicted are *not libeled* by the author. Certainly, Sheridan Whiteside in *The Man Who Came to Dinner* was based upon a living Alexander Woollcott and was even dedicated to him by the playwrights, but Kaufman and Hart did not libel their friend. More than a half century ago, I saw *The Royal Family*, and while the principal characters were, as the Writers Guild brief pointed out, "widely believed to be the Barrymores," they were not libeled—they were not portrayed as incompetent actors who would be hissed off a stage. So, too, in the whole litany of works set out above, it is virtually, if not entirely, impossible to find in any of them an instance where a living person has been defamed.

While writers do, and should, hold a favored position in society, their contribution does not and should not give them the right to destroy the reputations of others by unmitigated falsehood. As Justice Abe Fortas, in a dissenting opinion, stated: "The First Amendment is not a shelter for the character assassinator whether his action is heedless and or reckless or deliberate. The First Amendment does not require that we license shot gun attacks on public officials [or "public figures" as Bindrim was stipulated to be for the purpose of his case] in virtually unlimited open season."

The complaint about the decision's effect upon creativity of writers is actually nothing more than "sound and fury, signifying nothing." Libel is libel and those who libel living persons are going to be held accountable—as they always have been—even if they do it indirectly by fictionalizing the victim but leaving him or her recognizable. The law has never been any different and the Bindrim case simply clarifies it.

A word about the liability of the publisher, Doubleday. The award of damages and punitive damage against Doubleday was not based upon its originally having published the book. Indeed, the California Court of Appeal pointed out that there "was nothing in the record to suggest that prior to the hardback printing, defendant Doubleday in fact entertained serious doubts as to the truth or falsity of the publication, and investigatory failure alone are [*sic*] insufficient to find actual malice."

But the record also showed that promptly after publication of the hardback edition, Bindrim, through counsel, advised Doubleday that he had been libeled and, among other things, warned Doubleday not to permit a paperback publication. Nevertheless, Doubleday did permit a paperback edition and, as the jury found and the Court of Appeal pointed out, all Doubleday did to check whether Bindrim was in fact libeled was to ask the author, who replied, "Why, of course not." The court accordingly held that "the

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jury was entitled to find that Mitchell's assurance to Doubleday was not sufficient to insulate Doubleday from liability and that Doubleday had some further duty to investigate." Having failed to do so when it "either had serious doubts, or should have had serious doubts, as to the possibility that plaintiff [Bindrim] was defamed by *Touching*," Doubleday was liable in damages for the publication of the defamation.

This decision should convince publishers that when a claim of libel is made, they cannot brush it off by a routine inquiry to the author. No publisher's First Amendment rights are being impaired by the simple requirement of something more than a perfunctory query.

There are two personal notes which I feel it appropriate to add: The first deals with my feelings about the rights guaranteed by the First Amendment. My commitment to these rights was first expressed to the U.S. Supreme Court more than forty years ago (1938) when my brother and I wrote an amicus brief on behalf of the Jehovah's Witnesses' right to distribute their tracts without official molestation. The Court's unanimous opinion in that case, *Lovell* v. *Griffin*, written by Chief Justice Charles Evans Hughes, remains a landmark in the field. My own views, as expressed in our brief, have not changed in the slightest since then.

The second note is to recognize that while Gwen Davis (Mitchell) may have libeled Paul Bindrim, and while she can hardly be classed as a modern-day Flaubert, she does have a good and lively sense of humor. About a week after the California Court of Appeal decision came down, she was in my favorite bookstore autographing copies of her latest novel, *Ladies in Waiting*. Ms. Davis autographed my copy, "For George Slaff—who steals my purse steals trash, but he who buys my book is okay. Gwen Davis."

I am not at all sure that she meant I was okay as far as the First Amendment is concerned; indeed, I rather doubt it. But I like to think that I still am. □

A Rejoinder

CLANCY SIGAL

Admittedly, I am paranoid about libel. My last novel, *Zone of the Interior*, is banned in Britain because libel lawyers like George Slaff have refused to pass it as a "fair business risk" for insurance purposes. This means that a book I worked on for a decade, and which I designed to contribute to an ongoing debate about various types of therapy for schizophrenia, will not be read by its primary audience in the United Kingdom. The lawyers' stranglehold on what can and cannot be printed in England also means that—through contempt laws, the Official Secrets Act and wholesale use of the libel and slander statutes—advocacy journalism, or just plain reporting as it is known in the United States, is almost unknown. [A fuller discussion of British libel law by Clancy Sigal will appear in a future issue. —*The Editors*]

Although Mr. Slaff couldn't give a tuppenny damn, the English libel laws paralyze my work as a novelist. Neither he nor Judge Jefferson appear to (want to?) understand that libel is in the eye of the beholder. Perhaps more than any other law aside from sedition, libel is subject to the whims of legal fashion. Traditionally, libel is used in Britain as a political weapon to silence argument. The rising popularity of libel suits in the United States may reflect, albeit indirectly, a similar desire to "get at" writers and journalists who are perceived as a nuisance not only to governments but to self-assessing professionals as well. One of the healthiest things happening in America today is the consumer counterattack against the entrenched priesthoods of law, medicine, psychiatry, science, etc. Paul Bindrim is a psychologist practicing in a field notorious for its quacks and charlatans. If he cannot stand the heat he should get out of the kitchen.

From a writer's standpoint, America's glory is its tough-skinned openness to all kinds of criticism—constructive, destructive, ill- and well-informed and just plain daft. If anything brings me back here from Europe it will be the First Amendment tradition embodied, for me, in the works of Mencken, Heywood Broun (and, yes, Westbrook Pegler), Tom Wolfe, Izzy Stone and Woodward-Bernstein. If anything keeps me away it will be the spread of the Slaff-Jefferson dictum that literature is permissible only when a judge deems it so. Slaff protests, "The Bindrim decision does not in the slightest inhibit any writer . . . from drawing on living people for fictional portrayal so long as those who are depicted are not libeled by the author." Very sly, this. Having just made new law in the Bindrim case, he is perfectly aware that any definition of libel in the courts is fluid according to political and social climate.

Slowly the United States is edging toward a "British" solution where writers are held legally accountable for aggressively criticizing politicians, civil servants and professionals who view "ill-founded," "libelous," "unjustified," or "unfair" attacks upon themselves as more worthy of punishment than discussion.

Since I am never sure what the law actually is at any given moment, I won't argue the case for unlimited speech from a constitutional angle. All I know is that since before the founding of this Republic one of our most cherished living habits has been an agreement that a loud raspberry (regardless of "motive") is more important than the dignity or reputation of the object of such ridicule. The Bindrim decision is a symptom of a frightened, not a confident, America.

Writers, like other professionals, also have to take the heat. It is part of the job (as I wish Dr. Bindrim had understood when he nailed up his psychologist's diploma). And even before I was a writer I was a political person raised in a socialist household where strenuously free debate was the ark of the covenant. So when I was libeled—in the strict legal sense of being named in a professionally damag-

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Clancy Sigal is the author of Going Away: A Weekend in Dinlock, *and most recently,* Zone of the Interior *(Crowell). He is currently teaching film at the University of California at Santa Barbara.*

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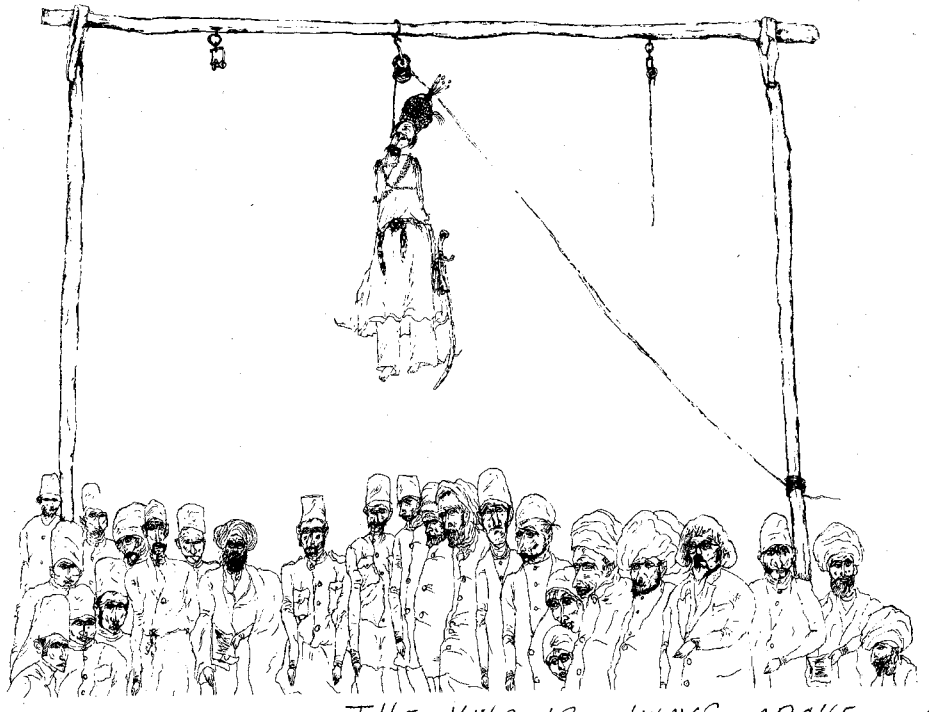
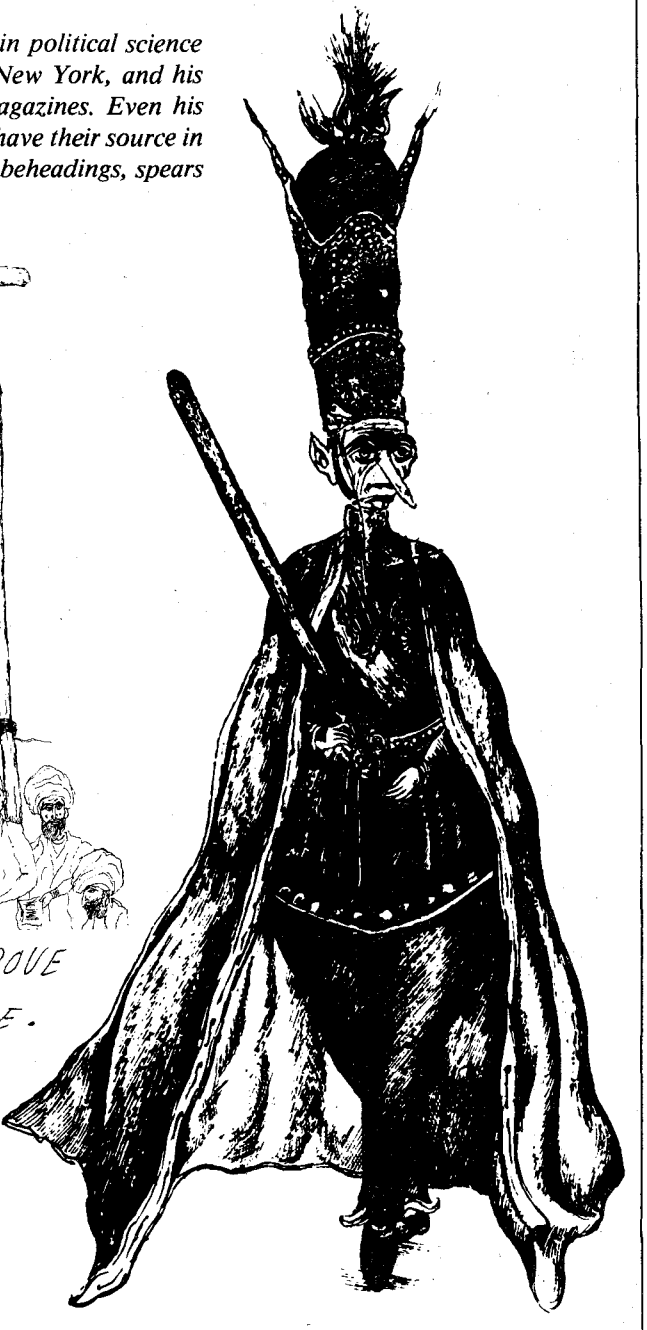
Iran: Visions of the Revolution

Ardeshir Mohassess was born in Iran in 1938 and received a degree in political science from Teheran University. He has lived in Paris, San Francisco and New York, and his work has appeared in Iranian and international newspapers and magazines. Even his most savage, contemporary caricatures—such as those on this page—have their source in ancient Persian miniatures and religious paintings—"full of scenes of beheadings, spears and scimitars that drip blood on the flowers and grass."

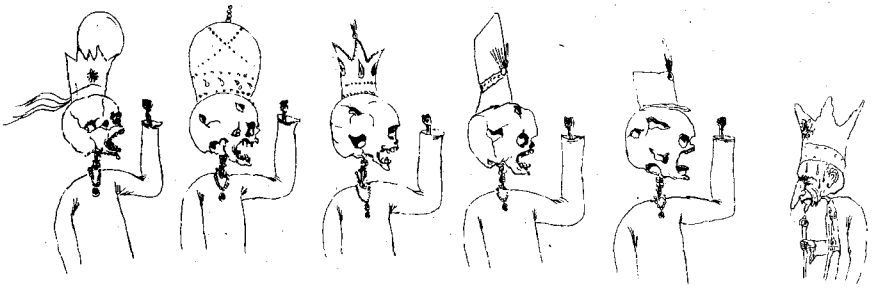


THE KING IS ALWAYS ABOVE THE PEOPLE.



KING OF KINGS....

—VICTORY TO THE PEOPLE!



—DEATH TO THE SHAH!

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(Continued From Page 106)

ing lie—by a couple of Los Angeles newspapers in the McCarthy hysteria, it never occurred to me to take them to court. It was all in the game. How ridiculous it would have been for a radical big mouth like me, spouting off every day about the Bill of Rights, to sue my traducers.

Later, when I became an "artist," I was skewered in all but name by a vengeful but talented lady writer in a play, a novel and God knows what else. Certainly I thought of slugging my ex-girlfriend (or at least killing her). After all, she had immortalized me as a neurotic *schmegege*—and who wants to be remembered like that? But living well, not suing for libel, is the best revenge. Second best is answering back in kind. Nelson Algren, caricatured in Simone de Beauvoir's *The Mandarins*, may have had the last laugh on her in his acidly witty story "Brave Bulls of Sidi Yahya" which is funnier, and truer, than anything de Beauvoir wrote about him.

Mr. Slaff may know all about courtroom law. He knows nothing about the prices of freedom. □

COLD-WAR WINDFALL

Carter's Afghan Security Blanket

ALAN WOLFE

The Soviet Union's decision to invade Afghanistan could not have come at a better time for Jimmy Carter. Hampered by his dismal failure in domestic policy, challenged from the left by a glamorous candidate, and vulnerable to the right because of the conservative atmosphere of American politics, Carter has found in the Russian move the perfect issue around which to organize his re-election campaign. Like Harry Truman in 1948, the President can claim that the Soviet invasion of another country transcends all other issues. And as was the case with Truman, the resulting revival of the cold war may just keep Carter's coalition in power for another four years.

While issuing grim warnings about Soviet aggression, the Administration is actually overjoyed by what the Russians have done; indeed, Carter and his spokesmen can barely conceal their glee. There is not even an attempt to argue that Afghanistan in itself is of strategic or economic import. Nor does the Administration act as if American national security were in any way seriously undermined by the Russian move. Instead, the invasion fits into an ongoing trend within the United States, justifying ex post facto a hard-line position against the Russians that has been firming itself up for almost four years. This is not the first time in the history of the cold war that the United States has begun to treat Russia as a hostile power, only to have the Russians act like one, thereby confirming American sentiment. The impact of the Russian move is to overcome the split within the Carter Administration between the "hawks" around Zbigniew Brzezinski and the "doves" associated with Cyrus Vance. Brzezinski had been winning the struggle as the election drew closer; the Soviet invasion gives him undisputed dominance over strategic doctrine.

Already one can see what the main consequences of the Soviet move will be within the United States. The invasion neatly resolves for Carter three of the most difficult and intractable foreign policy issues that in the past few years he has been flagrantly unable to handle: the end of the Vietnam syndrome, the SALT imbroglio and the debate over the strategic priority of the Third World.

National-security managers in Washington have been talking a good deal about the need for the United States to overcome the paralysis and guilt that ensued from the defeat in Southeast Asia. A "healthy" reassertion of American might, they claimed, would act like a tonic, reminding the American people of the "responsibility" they have to insure world order. Yet for all the brave talk, the Administration has been hampered by the realities of world politics, and it was unable to use American military might either in Nicaragua or Iran. Frustrated, the cold-war hawks within the Administration increased the stridency of their tone, determined to find some place in the world to apply American power. The Soviet invasion of Afghanistan is a heaven-sent opportunity for them to put their notions into practice.

In two ways the Russians are contributing to the process by which the "Vietnam syndrome" will be overcome. Most important, the Soviet action makes it possible for the American people to forget that since 1945 the United States has been the more aggressive and interventionary of the two superpowers. As outrageous and unjustifiable as the Soviet invasion has been, it has yet to seriously rival the U.S. occupation and bombing of Vietnam as a crime against international rules of civilized behavior. Thus there is a certain irony to Ambassador Donald McHenry's words to the United Nations condemning the Russians in terms identical to those that, at one time in the recent past, could have been interchangeably used to criticize the United States. In addition, the Russian move gives the United States a future option on a potential military invasion. The next time a revolutionary, or even a nationalist, movement comes close to power, whether in El Salvador or Pakistan, the United States can act more decisively with less fear of domestic criticism. Carter has a Russian invasion sitting in the bank, conveniently collecting interest.

Fortunately for Carter, the Russians have also saved him from the greatest possible embarrassment of his first term, the likely defeat of the SALT II treaty. From the beginning, Carter adopted a self-defeating strategy on SALT. Defensive and cautious, he gave away to the right-wing critics of détente all their demands, hoping that compromise and moderation would win support. Carter did not understand until too late that the right wing was not interested in being reasonable or in making deals, that far from wanting a bet-

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ter SALT treaty, the hawks in Washington wanted no SALT treaty at all. As a result, the more concessions Carter made to the right, the less chance the treaty had of passage, for each concession simply solidified the conservative claim that the Russians were militant and aggressive. Carter was in a no-win situation, and had the Afghan invasion not occurred, he would have suffered a major foreign policy defeat from his own Democratically controlled Senate.

With Soviet troops occupying Kabul, Carter can now turn around and withdraw the treaty from consideration until some undetermined time after the 1980 election. He thereby transforms the worst political situation into the best, for he can claim that he was in favor of détente, unlike the right, but that he also must meet aggression firmly, unlike the left. Before the Soviet invasion, there was no effective middle position on the SALT issue; after it, a middle position is the safest place to be.

Finally, Carter has been able to use the Soviet invasion of Afghanistan to resolve a little-publicized but highly significant debate that has been in progress in Washington over the strategic priority to be assigned the Third World. Although lacking the visibility of issues like SALT, a bureaucratic battle has been taking place in the capital between the Pentagon-Central Intelligence network and the State Department over the relative priority of economic versus military aid to the Third World. Early in his term, Carter brought into his Administration a group around Leslie Gelb and Anthony Lake that was critical of providing unlimited arms to Third World dictators, and advocated a long-range strategy of cultivating economic good will. Gelb's departure from the Administration a year ago indicated that sentiment was shifting in the direction of arms sales and new weapons, but the Iranian situation—where arming a dictator to the teeth simply intensified revolutionary change—brought about a stalemate. For example, Carter decided to send arms to King Hassan of Morocco, over the strong objections of the State Department, but then he backtracked when Congress, watching events in Iran, objected. Until the Soviet invasion of Afghanistan, this issue was still unresolved.

The Russian move guarantees that there will now be little opposition to those who advocate increased arms sales to the Third World. The first reaction of the Administration to news of the invasion was to prepare the ground for clearance of plutonium sales to Pakistan. In one of the few genuinely sensible decisions made in Washington, Congress had refused to allow an unstable Pakistani regime to put its hands on the one ingredient that would enable it to manufacture and deploy nuclear weapons. The ultimate lifting of that ban, which seems inevitable in the present atmosphere, will be the single most important direct consequence of the Soviet invasion. (Pakistan has a firm ally in China, and once the United States lifts the restraints on plutonium, India can be expected to move closer to the Soviet Union. If there is a danger of another world war at the present time, my feeling is that it would originate in the hostility between India and Pakistan and not in the Middle East, although to speak of a new global war at this time is premature, for reasons I will discuss momentarily.) Moreover, in another policy reversal, the Administration announced its willingness to sell FX fighter planes to Third World countries now that the political atmosphere has changed. Can anyone doubt that under these conditions King Hassan will ultimately get what he wants? At one time torn between arms dealers and arms controllers, the Administration is now banking on the support of the former to overcome the substantially weakened resistance of the latter.

No wonder that behind the sanctimonious and quite hypocritical deploring of Soviet conduct, the Administration is smiling. The Russians have finally decided to act in ways that Washington can understand. When Leonid Brezhnev, for example, announced his plans for troop cuts in Eastern Europe, the Carter Administration was at a loss for words, unable to respond effectively. But now that the Russians have opted for force, a choice fully understood in Washington, there is an audible sigh of relief. Once again, as they did in 1948 and 1956, the Russians have insured that the worst features of American xenophobia and militarism will triumph. The Soviet invasion closes the American ranks; liberals will now jump on the cold-war bandwagon and even the whispering voices that have opposed the return to militarism will speak in a vacuum. Within the United States, the Pentagon and the hawks will have the field to themselves; the only restraints on their demands will be self-imposed ones. Any chance that the United States would opt to mend its own society has been eliminated. In the absence of a tradition of domestic reform, the cold war remains the best way to unify the society.

Why did the Russians do it? They must have understood that in an election year there would be no other result than to move the American debate sharply to the right. Moreover, the Russians picked a country to invade that they have not been able to control since the Czars and that will be certain to resist occupation. Teaching China a lesson may be one reason, and controlling the large and restless Moslem population within the Soviet Union is obviously another, but the main reason may have something to do with domestic politics within the Soviet Union. The opposition to SALT in the United States, combined with the NATO decision to implant new missiles, has seriously undermined those Soviet policy makers who staked their future on détente with the West. (See Wolfe, "No Glicims for NATO," *The Nation*, November 24, 1979.) The Soviet invasion is the first sign we have had in twelve years that the disgruntled militarists in the Kremlin have recouped prestige. Just as the Russians have done everything in their power to insure the triumph of American hawks, America has made possible the victory of Soviet military planners. Hence a return to cold-war hostility between the two countries is inevitable.

Before concluding the worst, however, it is important to note that even at the height of the cold war, leaders of both countries recognized a common interest in preventing nuclear war and kept in place an infrastructure for resuming friendlier relations in the future. Carter has not taken any actions in the current situation that will prevent a resump-

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tion of détente ten years from now, and the official Soviet reactions to America's moves have moderated in tone as time has gone by. Some wheat will still be sold to the Russians, the Olympic games may yet go on, and Russians will still live in a mansion in Riverdale. The real tragedy of these periodic bursts of cold-war hysteria is that leaders in both countries know full well that they have domestic roots. American and Russian militarists have more in common with each other than they do with doves in both societies. Having cleared away obstacles to the effective exercise of their power, and having prepared the way for new weapons systems and greater military budgets, the cold warriors in both countries will eventually begin to relax their hold, and once again, some number of years from now, there will be moves toward cooperation and détente. It is a cynical and dangerous game, one that becomes harder to play each time a new round of hysteria breaks out. But it remains a game, one in which innocent bystanders are victimized so that the appetites of power can be satiated. □

Iran

(Continued From Front Cover)

accepting an extraterritorial imposition of U.S. control over the branches of American banks operating in those countries. There are rising fears in financial quarters that the U.S. freeze of Iranian assets has gravely impaired the fluidity of world commerce, which is needed to recycle OPEC oil revenues and other funds from the rich to the world's poorer economies in the coming recession. And six years after condemning the unilateral use of an oil embargo as an act of "economic strangulation" perpetrated by the Arab members of OPEC on the international community, the United States, despite its allies' reluctance to fall in line, imposes a unilateral trade embargo.

None of these looming ills seem to weaken the determination of the two adversaries, for to both, the issues of the return of the hostages or the Shah are matters of deep-seated principle. To the United States the seizure of hostages is an open insult, an unwarranted assault on innocent American citizens and a barefaced flouting of a most fundamental law of the society of states. The Vienna Convention of 1961, which protects diplomats throughout the world, including those who represent Iran, provides no grounds under which diplomatic personnel may be placed on trial as criminal offenders or spies. Diplomatic immunity, one of the oldest principles of the law between states, serves as a fundamental index of international comity; it is the basis for the exchange of information and emissaries for negotiation vital to the maintenance of peace between states. The expulsion of diplomats, though not their seizure or trial, has been and is a frequent occurrence in international relations. Nevertheless, even expulsion is ordinarily either a response to a severe crisis between states (as it is in President Carter's recent demand that the Iranian Embassy reduce its diplomatic staff) or to a grievous violation of the law of the host country, such as bribery or espionage by a diplomat. Despite a two-month opportunity to rifle the papers of the chargé d'affaires, Iran has so far produced little evidence of such crimes committed by any of the hostages they hold.

To the Iranians, however, their action is far from unwarranted. They accept diplomatic immunity as a matter of international law, but they see it overridden in this case by deeper issues of principle that the United States has violated. They judge that Iranian sovereignty, its right to national self-determination, enshrined as a basic principle of international law in the U.N. Charter, has been trampled, and that the Shah is a fugitive criminal sheltered by antirevolutionary nations and not merely a deposed head of state. The 1953 overthrow of their popular nationalist Premier, Mohammed Mossadegh, in a C.I.A.-engineered coup; the return of the Shah under American aegis, dependent on U.S. military and economic aid, which in turn helped build an army and state police system designed to control the Iranian population; the negotiation of an oil consortium decidedly favorable to U.S. oil companies, and continued support for the Shah's regime and secret police by American Presidents up to and including the Carter Administration—all these constitute in the eyes of Iranian nationalists a long-term pattern of indirect aggression. The admission of the Shah to the United States seemed in furtherance of this pattern. Most Iranians doubted the existence of an ailment and suspected a plot to restore the Shah.

These grievances are compounded by the military and political oppression and economic corruption that characterized the Shah's dictatorship and by the regular use of torture employed by his regime. The body count of the Shah's victims ranges from 10,000 to much higher figures; but whatever the exact count, the Shah, his family and their henchmen operated as a strikingly vicious, venal clique that exploited the country and terrorized an opposition determined to restore the standards of financial probity and respect for the common citizen that accord with the country's deeply held Shiite values. Iran thus seeks, at the very least, an admission of wrongdoing by the United States for past violations of Iranian sovereignty. Iran also insists on its right to prosecute the Shah for his crimes of state.

There may be some exaggeration in these charges. On the American side, there is apparent exaggeration in statements that the hostages are being treated cruelly. (Apart from their confinement and the inevitable mental strain that entails, the hostages continue to be maintained at a material standard of living superior to that of the average Iranian; visitors to the embassy compound confirm their good health and appearance.) On the other hand, at least from the 1960s onward, despite American support for the Shah's corrupt repressive regime, including, quite likely, a working relationship between the C.I.A. and Savak, there is little basis for

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the Iranian view of the Shah as a puppet rather than a convenient, critical and occasionally demanding ally. American complicity in the Shah's corrupt and repressive policies is the real foundation for grievance, and thus for justice. Seen in this way, Iranian grievances should touch a sympathetic nerve in this country, given traditional American concerns over human rights and fair, independent government. Despite overwhelming support for the President's policies, few have come forward to defend America's historical record in Iran, and the American people feel little sympathy for the Shah. The sources of Iran's dilemma are its demand for justice against the United States and the Shah coupled with the lack of a suitable international forum in which its grievances can be effectively raised.

International law and practice *has* in the past countenanced international determination of individual wrongdoing. In the Versailles Treaty, Germany accepted "war guilt" for World War I after an international investigation (though a far from impartial or fair one). Kaiser Wilhelm was regarded as a war criminal worthy of prosecution. Similarly, Nazi and Japanese leaders were prosecuted and punished after World War II for having waged aggressive war, committed war crimes and engaged in crimes against humanity. However, indirect aggression or subversion, even though formally contrary to the principles of current international law, are not as clearly defined as the crimes for which Germany and other Axis powers were condemned.

Moreover, as a practical matter, the United States is not a defeated country and Iran is far from a world power. Given the United States' preponderance, only its acquiescence could lead to a thorough international assessment in the United Nations of Iranian charges against U.S. diplomacy during the Shah's rule in Iran. Similar political obstacles arise with respect to the Shah. Naturally, he could be tried by an Iranian court if the Iranians could seize him. And international law, following Nuremberg, recognizes international jurisdiction over individuals, applicable in national courts or before the International Court of Justice, for "crimes against humanity." Among these crimes are "persecutions on political, racial, or religious grounds," which were mainstay policies of the Shah and his regime. But in the Nuremberg trials, crimes against humanity were specifically restricted to acts carried out during wartime. Thus, despite the moral—or rather immoral—similarity of the culpable actions, a firm legal precedent does not exist for indicting the Shah for his peacetime crimes. Other international standards, such as the Human Rights Covenants, lack full acceptance among all nations and contain no provisions regarding *individual* criminal liability. Thus, states have no clear legal responsibility to try the Shah and bring him before an international tribunal, and it is generally accepted that he can be legally offered asylum. There is no extradition treaty between the United States or Panama and Iran but even if one did exist it is doubtful that it would be interpreted to cover crimes of the sort alleged against the Shah.

At the same time, these technical obstacles can be exaggerated. There was no firm foundation in *prior* law that supported the Nuremberg and Tokyo War Crimes Trials. Its absence was a defect, and yet not one so fundamental as to defeat the impulse to hold leaders of state subject to standards and procedures of criminal accountability. Indeed, the Nuremberg process was widely endorsed throughout the world. Every legal order is opportunistic in the sense that steps forward in the law are taken when favorable political conditions exist. Those conditions existed in 1945 because the victorious Allied Powers were determined to exact punishment and had the capability to make it stick. The critical element of *political will* was abundantly present. The legal purists might still take offense, but the net effect was to establish a legal precedent that is looked back upon with a measure of respect.

The United States and Iran are thus caught in genuine dilemmas. Each makes telling claims on grounds of international obligation founded on the moral principles that sustain the society of states and that entered into the re-establishment of international order following the devastation of World War II; but only the U.S. position seems fully sustained in current international law. Once again the spirit confronts the body of accepted law.

Although the righteousness of each side's moral and legal claims adds heat to the confrontation, it is not its only fuel. America and Iran are not engaged in either a courtroom drama or a scholarly debate; political forces as much domestic as international rigidify their positions. Neither Khomeini nor Carter appears to have originated the current crisis. The students seem to have acted independently in seizing the embassy with the Ayatollah's after-the-fact approval; Carter's decision to admit the Shah may have stemmed from a mixture of humanitarian motives, fear of the domestic political consequences of not admitting the Shah and a failure to anticipate the full international and Iranian consequences of admitting him. Both leaders, however, have, up to this point, gained from the crisis. In Iran, the seizure of the embassy is decidedly popular, judging from press accounts, even in regions disaffected on ethnic and religious-political grounds from Khomeini's regime and from the Constitution which makes Khomeini the state behind the state—the official *faqh*. The crisis has galvanized the middle classes, who were alarmed at the deterioration of the economy, and has re-established the centrality of the Ayatollah's position as the Cultural Revolution re-established Mao's dominance in China. Khomeini has seized the occasion to revive the ardor of the revolution and cast aside any pretension of the state bureaucracy to be routinizing the revolution.

The full relationship between Khomeini and the students remains far from clear. What is clear is that Khomeini seeks a political victory that will confirm his vision of a unified, radical, Islamic republic by exposing the complicity of the secular and corrupt Pahlevi dynasty in the operations of American imperialism. Beyond this, Khomeini seeks an aroused Iranian and Islamic nationalism that overcomes the divisive movements in Azerbaijan, Kurdistan, Baluchistan, Khuzistan and elsewhere. These movements threaten to reduce Khomeini's Iran to the arid plateau surrounding

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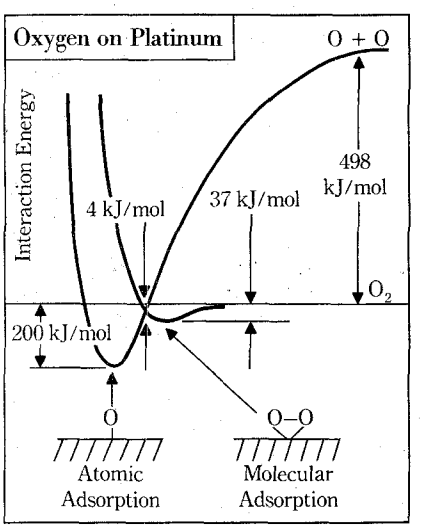
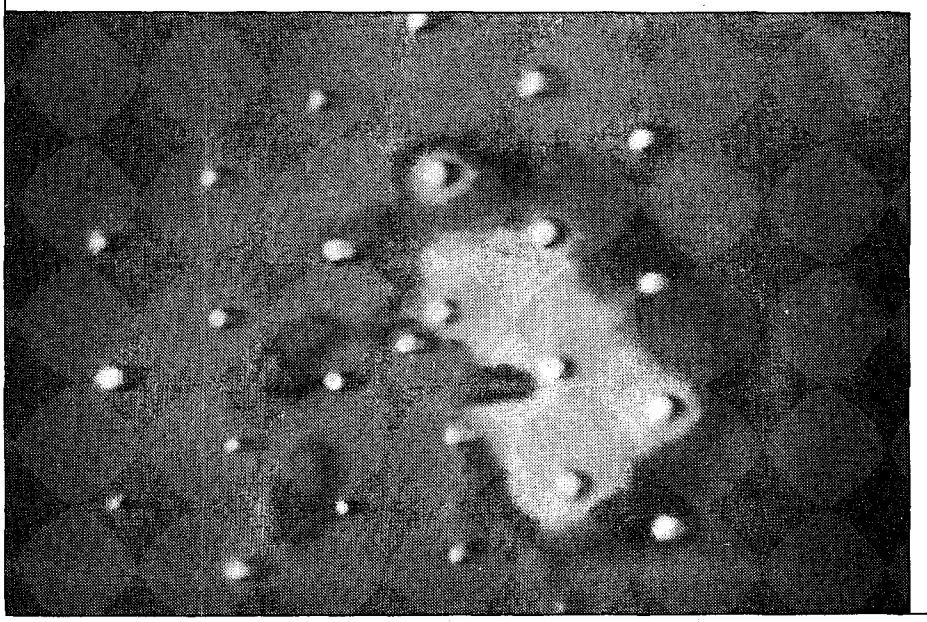
The Atomic Arrangement

In a recent experiment, scientists at the General Motors Research Laboratories studied changes in chemical bonding during the dissociation of oxygen molecules on platinum. Preliminary surface work has explored an interesting new phenomenon: the mechanism of oxygen dissociation over a wide range of temperatures.



A simplified schematic illustrating the reaction potential energy surface for oxygen-adsorption on a close-packed platinum surface.

An electron diffraction pattern which shows diffraction patterns from an oxygen-covered hexagonally close-packed platinum surface at 0° C.



UNDER what conditions will oxygen molecules dissociate into single atoms on a platinum surface? What is the mechanism for oxygen dissociation? Those are the kinds of questions that Dr. John Gland and his colleagues at the General Motors Research Laboratories are investigating to get a better understanding of the chemistry behind catalysis.

Their work has valuable practical implications for the automotive field, where catalysis is used to remove harmful emissions from automobile exhaust. Most cars built in the U.S. use catalytic converters filled with beads containing platinum to chemically transform carbon monoxide and unburned hydrocarbons into harmless CO_2 and water.

While it has long been known that catalysts are an effective way to convert these gases, little is known about precisely why and in what order the basic atomic reactions occur.

In seeking answers to these questions, surface chemists study the elemental composition and geometric arrangement of atoms in the first few atomic layers of the surface and the means by which atoms and molecules from the gas phase bond to the surface.

In his most recent work, Dr. Gland has been studying the adsorption and desorption of oxygen on platinum single-crystal surfaces. This is important because oxygen is the agent that must be adsorbed on the surface to react with carbon monoxide and hydrocarbons to convert them to CO_2.

The experiments were conducted in a stainless steel ultrahigh vacuum system equipped with an electron energy analyzer and a mass spectrometer. The electron energy analyzer allows one to measure the concentration and character of the oxygen adsorbed on the platinum surface. The mass spectrometer is used to measure the desorption of O_2 as the platinum surface is heated. Mathematical analysis of the desorption process allows one to characterize the chemical bond between the oxygen and the platinum surface.

In these experiments, the platinum surface is covered with oxygen at the extremely low temperature of −179°C (almost the temperature of liquid nitrogen) by exposing it to gaseous O_2 molecules. The oxygen remaining in the gas phase is pumped away, and then the desorp-

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tion of oxygen from the surface is observed as the platinum crystal is gradually heated to 1000°C.

The oxygen was found to desorb from the surface in two distinctly different temperature regimes—part at −125°C and the rest at about 425°C. By using the oxygen-18 isotope, it was established that the low temperature desorption represents oxygen that was adsorbed on the surface in a molecular form while the higher temperature desorption corresponds to oxygen adsorbed in the atomic form. From an analysis of the desorption process, it was possible to establish the complete energetics. Oxygen molecules from the gas phase strike the surface and are weakly bound (37 kJ/mol). The adsorbed oxygen molecule can either desorb into the gas phase (37 kJ/mol) or dissociate into atoms (33 kJ/mol). The atoms are bonded very strongly (200 kJ/mol) to the surface.

FROM the desorption analysis, it was also possible to deduce the mechanism for the dissociation process. The interesting conclusion that results is that the formation of O atoms on platinum is a two-step process—oxygen is adsorbed in a molecular state and then dissociates to form atoms.

The GM scientists were most interested in learning how this adsorbed molecular species is bonded to the platinum surface. Fortunately, another technique was available to determine the bonding. The technique is called electron energy-loss spectroscopy and is quite new—there are only six or seven such instruments in the world. The measurements not only confirmed the existence of the adsorbed molecular oxygen but showed that it was bound by the transfer of two electrons from the platinum surface into the antibonding π_g orbitals of oxygen. "This was most exciting" said Dr. Gland, "because this is the first time that this type of oxygen bond has been observed on a metal surface.

"We're getting closer and closer to a more specific understanding of catalysis," says Dr. Gland. "The more we learn about simple chemical systems, the better we'll be able to control more complicated systems. That has excellent implications for protecting the environment."

THE MAN BEHIND THE WORK

Dr. John Gland, 32 years old, is a Senior Research Scientist in surface chemistry at the General Motors Research Laboratories. He heads a group of 7 investigators, 4 with Ph.D.s, all involved in work relating to the basic surface chemistry of catalysis.

A graduate of Whittenberg University in Ohio, Dr. Gland received his Ph.D. in physical chemistry at the University of California, Berkeley, in 1973 and joined the General Motors staff that year.

Dr. Gland comments: "I came to GM Labs because I wanted to get in on the ground floor of an exciting new field. The atmosphere here is very open, with lots of cross-pollination among departments. With several hundred people with Ph.D.s here, we've got a lot of human resources to draw on in all the basic sciences.

"Typically, management defines a broad problem, then we're free to tackle the solution in any way we choose. They give us the freedom, equipment and support to get the job done correctly."

In addition to his research, Dr. Gland enjoys backpacking in Wyoming and in the Sierra Nevada Mountains in California.

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Teheran—an outcome intolerable to the Persian majority. Such a development would seriously discredit Khomeini and the revolution he has led. Perhaps most important of all, Khomeini wants his movement to be one that extends the Iranian Revolution beyond Iran to all corners of the Moslem world, and to do this it is certainly helpful to show that it is possible to stand up against American military power.

Similarly, in the United States, Carter's stand on national unity has effectively muzzled his opposition and resurrected his political fortunes (the largest, most rapid turnabout in the polls in American history). Following the Edward Kennedy "blunder"—his criticism of the Shah—the Administration began tarring its liberal critics. Kennedy was accused of subverting an Argentine asylum for the Shah and the media were accused of being stooges of the Iranian radicals. Responding to the popular anger, Carter had earlier discriminated against Iranian students in the United States and had frozen Iranian assets in all American banks and their overseas branches. In a seemingly coordinated move, Chase Manhattan declared Iran in default for failure to make payment on loans. While resisting demands for immediate military retaliation, the Administration sought conciliation with Iran, offering not to object to a U.N. investigation of U.S. activities in Iran after the hostages were returned.

Although the Soviet veto of economic sanctions in the Security Council forestalled a general embargo by America's allies, the United States is proceeding with its own pressures, and the naval forces needed to police a blockade are now being assembled in the Persian Gulf in preparation for the next step. More broadly, the crisis has served as a rallying ground for the right. It has added steam to their demands for an increase in military capacity and for a defeat of SALT II, especially after the Soviet Union's intervention in Afghanistan. Most particularly, it has allied the military interventionists who seek to "put Vietnam behind us" with the "arc of crisis" group in the National Security Council. With the new Rapid Deployment Force now being organized for intervention in the Persian Gulf area, they can together "put Vietnam behind us" by creating a military capability for new Vietnams.

Though one sees much rallying around the flag, there is probably little rallying behind the Carter Administration itself. Carter has benefited from a highly conditional burst of popularity. Just as Khomeini cannot for domestic political reasons do the one thing (free the hostages unconditionally) that could appease the United States, so Carter cannot do the things Khomeini demands, such as accepting a trial of the hostages designed to expose U.S. complicity in the Shah's acts (even if all but the C.I.A. agents were "acquitted" and the agents incarcerated rather than executed). Nor could he countenance an Iranian Eichmann operation to kidnap the Shah. Given U.S. defense capabilities in Panama, the Iranians could not bring off such an operation without American acquiescence, but that would set off a storm of protest from the militaristic right of the very sort Carter admitted the Shah to avoid. No one on the liberal left supports a trial of the hostages, but an economic embargo would create great pressures on America's allies (particularly the Japanese) and escalate energy prices. Moreover, the Iranians have sufficient liquid funds to purchase their food needs—at least for long enough to try the hostages. A blockade, while more effective, could tempt the Soviet Union into becoming Iran's provider (to offset the negative reactions to their Afghanistan invasion, to improve their prospects for oil, and despite their fears of radical Islamic movements among their own population). The temptation to interdict overland supply or bomb other targets—such as Iranian air bases—will be large. Revenge, or reprisal, failing a rescue of the hostages, might satisfy the militaristic right, but it will also generate liberal domestic opposition. These liberal charges are likely to focus not only on the reprisal per se but on the original decision to admit the Shah, including the still unexplained role David Rockefeller and Henry Kissinger played and the Administration's neglect of the warnings the State Department made at the time.

In short, Carter and Khomeini seem caught in a dilemma. Each demand has been met by a threat. Iran seized the hostages and demanded the return of the Shah. The United States categorically refused and began to mobilize diplomatic censure against Iran and to threaten economic sanctions to obtain their release. Iran refused to return the hostages and threatened to set up a commission of inquiry to expose the record of U.S. policy in Iran. Although a pause occurred at this point when the United States seemed to indicate that it would tolerate such an inquiry in return for the release of the hostages, the escalatory process soon resumed as threats of a U.S. naval blockade and Iranian threats of a trial of the hostages moved closer to implementation. Each step raised the cost of the confrontation for both nations. Each step, including the failure of Kurt Waldheim's mission to Teheran, the decision by the United States to begin a unilateral trade embargo without either Security Council or General Assembly sanction, and the Iranian expulsion of American journalists, seemed to further lock the participants in a deadly embrace. Increasingly, the dispute appeared to be played to the domestic audiences of the two adversaries. Each appeared to be cutting its links of communication with the other. At the same time, the indirect costs of an energy crisis, stimulated, as Saudi Arabian Sheik Yamani notes, by uncertainty over the dispute with Iran (not by an actual oil shortage), made the world community, and not just the United States and Iran, justly alarmed. Is there a solution to be plucked from this nettle?

Both the United States and Iran feel boxed in. Neither can reasonably expect a settlement that can be fully regarded as a victory; neither can see even an acceptable settlement stemming from the actions of the other. At the same time, by rephrasing demands and emphasizing what is crucial to each side, the conflict could be converted from one in which there are two losers to one in which neither sacrifices essential interests. The most attractive policy combination in this spirit would be the return of the hostages and appointment of a commission under international auspices to investigate the historical record of U.S. policy in Iran.

This mutual option has seemingly been rejected by Iran,

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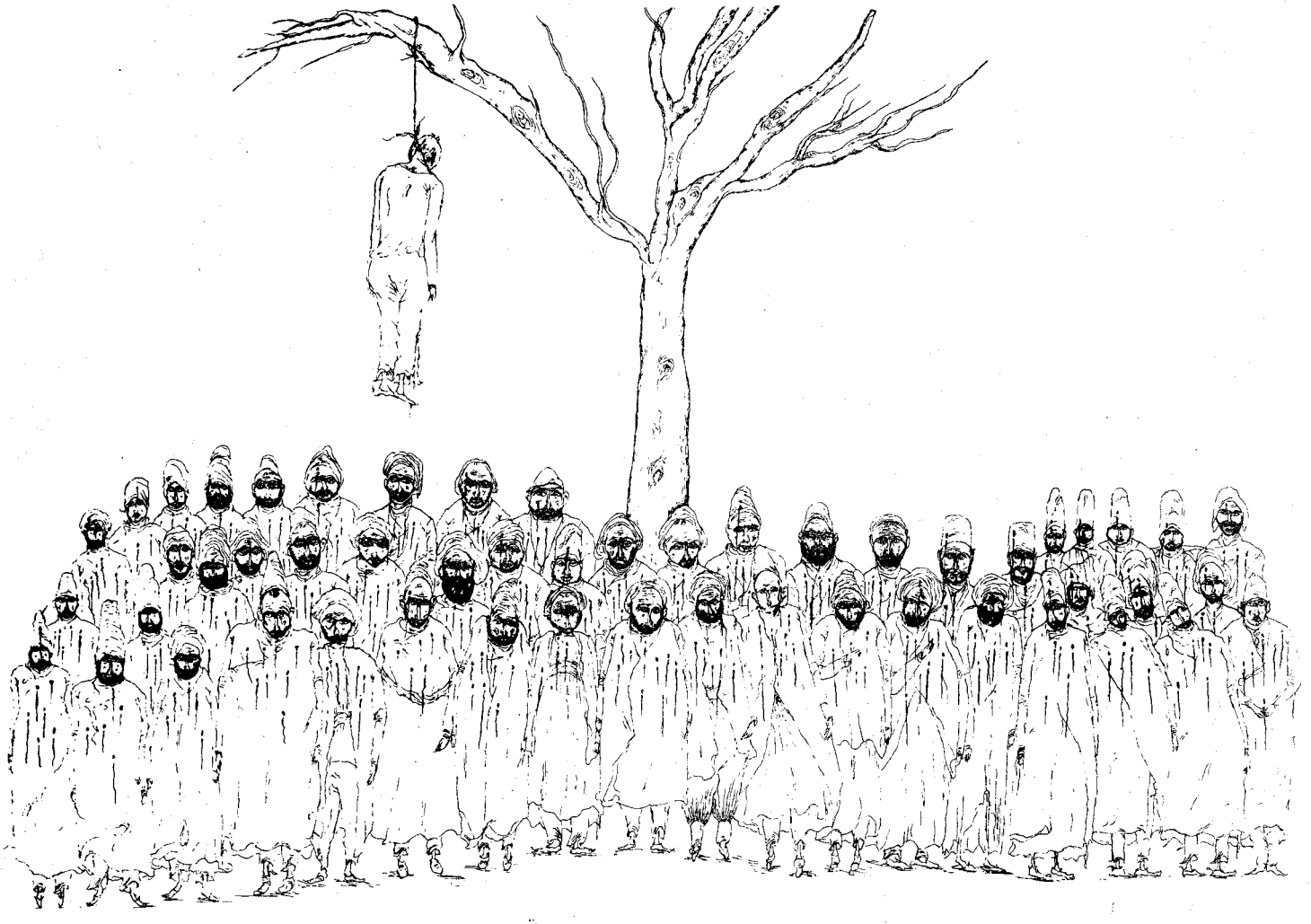
but without finality. It is difficult to determine exactly why it was rejected, but three factors that may have influenced the decision are now less significant or could be made so. First, they may have expected the physical return of the Shah. This never was remotely feasible. Second, they probably did not want to concede without a clear promise of substantial satisfaction—a simultaneous agreement from the United States to support a U.N. investigation. The United States demanded unconditional release of the hostages. Third, they probably felt that the United States would renege on its agreement, if made, to conduct an investigation (by calling it an agreement exacted under duress, for example) or hamper its operation once it began in the United Nations.

These second and third factors might now be overcome. Following the massive Soviet invasion of Afghanistan, both the United States and the Iranians may be reassessing their views on where the greatest threats to their interests lie. Indeed, the new threat in Afghanistan may give them both more room for the domestic maneuvering needed to resolve their deadlock in Teheran. Just as important, other states in both the First and Third World are beginning to appreciate the gravity of the crisis, as well as the reality of the Iranian grievances against the United States. The Europeans and Japanese are alarmed at the probable effects of sanctions or a blockade on the condition of the world economy. Third World states are similarly concerned on these grounds, and at the turn toward interventionism in U.S. foreign policy that the crisis is stimulating. Third World states are the likely targets of the proposed ready strike force, and the memory of Vietnam remains vivid.

Thus the escalation and widening of the crisis might serve to incubate its solution by bringing to bear the diplomacy of concerned third parties, thereby transcending the bilateral confrontation. Indeed, the measure introduced by France, Mexico and Bangladesh in the Security Council on January 16 can be interpreted as just such a move. The U.S. demand for an unconditional release would be maintained if Iran releases the hostages and other members of the United Nations—First World and Third—guarantee the separate and unconditional establishment of an authoritative, impartial investigation. The United States achieves its minimal politically acceptable demand through the formally unconditional return of the hostages. The Iranians gain a formally unconditional hearing in a public international forum of their grievances and, of course, receive assurances against any subsequent military or economic retaliation. America and Iran need to be rescued from this present impasse. Europe, Japan, Africa, Asia and Latin America need to rescue themselves from the consequences of what has become a dangerous, costly encounter. □



ONLY THE IDENTITY OF ONE OF THE DEAD PEOPLE HAS NOT BEEN ANNOUNCED YET.

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(Continued From Page 98)
we might do about these policies to strengthen rather than destroy supportive kin networks.

Finally, on the most widely quoted and most unfortunate phrase in *Beyond the Melting Pot*, which Gutman quotes, to the effect that the black "has no culture to guard and protect." The context was a discussion of black problems, and, yes, of family problems among others. I pointed in 1963 to the high percentage of female-headed families, of illegitimacy (now much, much higher). I pointed out that these "do not necessarily mean poor upbringing and emotional problems," but that combined with other factors they did. I argued that obviously poor education, jobs, housing, unfair police treatment were all involved in making black problems. "And since it is easier to do something about education, housing, jobs, and police administration than many other things, there is where we should put our emphasis, and there is where we begin." But I also went on to ponder why blacks were in a worse situation than white immigrants from Europe, who had also suffered from migration, uprooting, poverty and a much more modest degree of prejudice and discrimination, and what seemed clear to me was that whereas the European immigrants had come with a foreign language and culture that necessitated the creation of institutions, from afternoon schools to corner groceries, this was not true of blacks, who—in their own self-image—had become Americans, and nothing else. One saw very clearly, in 1963, that blacks wanted to be treated just like other Americans, and had no interest—at that time—in protecting or maintaining a distinctive culture—African or black. This had consequences for the relationship between middle-class blacks and poor blacks—there was less to connect them—and for black attitudes toward their own capacities and responsibilities when it came to dealing with black problems—as people "made" in America, they argued it was up to other Americans to take the steps to overcome their problems. Or so it seemed to me in 1963.

It was in a context of trying to understand a situation that cried out to be understood—and still does—that I wrote as I did. Much has changed since then, in the relationship of blacks to their African heritage and to the culture they forged in America, and in the attitude of blacks to the kind of self-help efforts that have played a role in the progress of other racial and immigrant groups. If the experience of other racial and ethnic groups in America is any guide to the process by which groups gain a more satisfactory place in American society, this is a good thing. *Nathan Glazer*

PANGLOSSIAN PURVIEW

Nyack, N.Y.

Nathan Glazer's letter invites three brief comments. First, it is welcome news that Glazer now rejects "the legacy of slavery" argument (a historic "deficit" black family structure) so central to his and Daniel P. Moynihan's prescription for black social health in the 1960s. Glazer now writes, "Whatever the contribution of the distant past to the situation of the poor urban black family, the contribution of the present is more significant."

But Glazer's view of the present remains excessively Panglossian. (I leave aside his description of the black middle class except to remind readers of Vernon Jordan's sanguine comment that most middle-class blacks would return to poverty if they missed three paychecks, and of the fact that the aggregate number of blacks in the middle class now is actually shrinking.) Glazer's optimism is misleading. He seeks "present" explanations for the troubles poor blacks and their families experience but insists that such explanations "cannot possibly be . . . that opportunities for poor urban blacks are now fewer—never have there been more." Really? Between 1954 and 1978 the unemployment rate for white youths aged 16 to 19 increased from 12.1 percent to 13.9 percent. Among black youths aged 16 to 19, it increased from 16.5 percent to 36.3 percent. And the unemployment rate among blacks aged 20 to 24 (20.7 percent) doubled in the past decade. The recent suffering among so many poor urban blacks has not been experienced in a setting of expanding opportunity for them. Glazer surely must know these facts—one reason why his letter is so disappointing, even embarrassing.

Second, Glazer complains that my *Nation* essay failed to show that he and Moynihan relied heavily on the pioneering studies of E. Franklin Frazier. I made that argument in my book (1976), and his fair complaint allows me briefly to clarify an incomplete analysis there. Frazier wrote a mistaken but influential history of the black family. His work survives its weaknesses because it demonstrated the adaptability of black men and women to changing patterns of exploitation. That was a new and a liberating analysis in its time. His work was *not* an indictment of the poor black family but of the ways in which slavery, institutional racism and capitalism battered its members. Frazier detailed the difficulties encountered by poor blacks but never argued, as Moynihan later did, that "at the center of the tangle of pathology is the weakness of the family structure." He located "the center" in an unjust social system. Glazer and Moynihan later turned Frazier's work on its head. Consequences became "causes." The family became "the" problem.

A very important difference in analysis and emphasis distinguishes Frazier from Glazer and Moynihan. They are not his lineal descendants. Frazier published *The Negro Family in the United States* in 1939. It was a radical and an optimistic work. Frazier then predicted that poor urban blacks would be integrated into an expanding working class and changed by that experience. In turn, they would help democratize (if not transform) American capitalism. None of this happened. If Frazier lived among us now his optimism would be very, very muted. He surely would not celebrate the increasing "opportunities" available to poor urban Afro-Americans between 1950 and 1980.

Third, the Afro-American experience has been a biracial one for about 350 years. That has been so even though Glazer did not realize it in 1963. What he calls group "self-help efforts" always have been at the core of that historic experience. We know so because a new scholarship continues to demonstrate that the descendants of Africans did much more than inadequately imitate the descendants of Europeans.

Herbert G. Gutman

Discovery / *The Nation* '80

The deadline for submissions to the sixth annual Discovery / *The Nation* poetry contest, open to poets who have not yet published a book of their own poetry, is February 26, 1980. For additional information, call or write The Poetry Center, 92nd Street YM-YWHA, 1395 Lexington Avenue, New York, New York 10028, (212) 427-6000, extension 176.

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BOOKS & THE ARTS.

'The Brethren': A Symposium

MICHAEL MELTSNER

Is *The Brethren* merely a landmark in the history of gossip, a book advancing the remarkable proposition that judges too are human beings? Much ado about not much?

Or are we offered demystification of still another institution that talks principle while it plays politics—an investigatory tour de force that makes the Supreme Court publicly accountable for some questionable practices and prerogatives?

Bob Woodward has called his book "a mixed bag." No reviewer can do better. To their credit, the authors have admitted that *The Brethren* is "history on the run," that its portrait of the 1969 to 1975 terms of the Burger Court will have to be revised. They also have done their legal homework. Lawyers will pick and quibble but the problems here don't arise from the fact that Scott Armstrong did not complete law school. Readers who follow the Court closely will find a thoroughly engrossing survey of decision making in some of the decade's more significant cases. Others will stifle yawns unless they are aroused by learning that the Justices stroke, cajole, insult and manipulate in their quest to put together viable results and coherent opinions, or that clerks who were selected for their ability to take tests enjoy showing up Justices who reached the Court by a very different route.

Reviewers have expressed concern that the wide publicity given *The Brethren* makes the Court vulnerable to those who would undermine the prestige at the heart of its power. But it is idle to lecture reporters such as Woodward and Armstrong that they have a duty to weigh the consequences of their revelations. Those consequences are largely unknowable; one can even argue that this book helps more than it hurts the Court. What will rankle even a fierce critic of judicial presumption, however, is the holier-than-thou spirit which impels Woodward to claim that he is merely the medium through which facts speak. It is one thing to use secrecy to expose secrecy; another to deal with differential perceptions about controversial events, second-hand memories of long-past conversations, transient feelings and intangible states of mind, and to assert, as Woodward did recently to a Cambridge, Massachusetts, audience, "We aren't portraying anything. We are just presenting information." *The Brethren* overflows with interpretation masquerading as objectivity: irritating stereotypes; naïveté about human memory; plain silliness when it comes to attributing quotes and feelings.

THE BRETHREN: The Supreme Court Under Chief Justice Warren E. Burger. *By Bob Woodward and Scott Armstrong. Simon & Schuster. 480 pp. $12.95.*

I believe Woodward when he says there was no way to get the story except by holding interviews "on background" and checking and cross-checking recollections and documentary evidence. But the reader is treated unfairly, asked to put total trust in the authors and never reminded that their sources might be settling scores, speaking rumor as fact, engaging in self-aggrandizement, or simply not be in a position to know. Rarely are we presented with conflicting evidence of the same event. As far as one can gather from the text, all sources who cooperated were equally credible; the perspective of those who did not cooperate remains, of course, unrepresented. The authors never have doubts —at least no doubts they share with us. A similar irritant is the book's ingenuous habit of slipping from attributed statement to wholesale elaboration without revealing whether the elaboration is the authors' surmise, a clerk's interpretation (when? from what perspective?), or a Justice's statement. In short, the text is a mine field for the unwary but earnest reader.

The method employed is especially outrageous in its reporting of one of the few instances of alleged misconduct. One of Justice William Brennan's clerks is said to have been "shaken" after urging Brennan to switch his vote away from Justice Harry Blackmun's majority opinion in the murder case of Lyman "Slick" Moore—a change that would have given Moore a new trial. Brennan felt (the clerk told the authors or told another clerk who told the authors or told someone else who told Deep Throat who told the authors) that "if he voted against Blackmun now, it might make it more difficult to reach him in the abortion cases or even the obscenity cases." The text makes clear that Brennan is being charged with trading a man's right to trial by jury for Blackmun's good will. If this is true, Brennan acted unethically, but is this attack on one of the finest judges ever to sit on the Court based on hearsay or first-hand report? Was the declaration recorded contemporaneously or remembered years later? Worse, the authors don't tell us if Brennan was asked to respond to the charge and what reply, if any, he made.

We can only speculate about the motives of the clerks who presumably provided most of the nonpublic material in the book: they resented producing legal reasoning for a Court drifting to the ideological right; they thought themselves superior, intellectually and morally, to their bosses. Because the number of clerks has grown, the Justices no longer spend sufficient time with them. Heads were turned by Woodward's glamour. We can only suppose that intense anger or ambition produced these disclosures. Last October, Brennan hosted a Saturday night dinner for former clerks. Requesting that what he had to say not leave the room, he announced that he was seriously thinking of retirement. A complete report of the dinner was published in Monday's *Washington Post*. The clerks of the brethren seem to come straight from *Totem and Taboo*.

Woodward and Armstrong claim, however, that a number of Justices cooperated with them, some by freeing clerks to talk, others in a more direct way. If so, the book is less a monument to the need of young men (most clerks are male) to embarrass old men than to

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general hostility toward Burger. We are told that he injected an excessive concern for the appearance of decisions and their political consequences; that he trampled on settled practice; that he was pompous, shallow and autocratic, and that he forgot he was only first among equals. Worst of all, he was a lousy lawyer. But Warren Burger did not invent these sins. The Court has had its share of mediocrities, its reactionaries, egotists and trimmers. No one who has studied the Justices of the past need look far for feet of clay. Thus we are repeatedly amazed that the reporters' sources wanted to get Burger so badly they were willing to risk the Court's good name to do it.

The larger question is how much privacy a constitutional court should have in a democratic society. Initially, that is a question for the Justices themselves; if they are the source of much of the book, directly or indirectly, it is, of course, their right to define the limits of confidentiality. One can but observe that just determination of all sorts of rights depends on negotiation and conciliation, risk taking, the opportunity to propose controversial ideas and, ultimately, on privacy and trust. No one seriously urges that the United States and the Soviet Union conduct SALT negotiations in the open or that diplomatic moves to free the hostages in Iran be televised.

By declining to interview anyone about cases that reached the Court after 1976, the authors are telling us sotto voce that the Court can be damaged by journalistic assault. Will the next raid observe the distinction between closed and open cases? If *The Brethren* is a scoop, won't a version of deliberations on a pending case be an even bigger one? The danger is not that Justices and clerks now know how they feel about one another but that they may assume in the future that everything they say will be material for *The Brethren: Part Two.*

The only way to remove this threat is to accept that for the Court to do its job well the Justices simply have to engage in the group politics, criticism, tugging and pulling that Woodward and Armstrong describe. In a larger sense, this portrait is unflattering only to the extent that we need to maintain the pretense that constitutional adjudication consists of applying clear text or unambiguous precedent in a value-free universe.

We know too little about how judges reach the results that they do. Since the 1930s, legal realists have argued that the reasoning in judicial opinions is mere rationalization for intuited views. Others insist, however, that to look behind the reasoning of the cases necessarily engages lawyers in fruitless subjectivism. These two perspectives have not been successfully synthesized. The decision process described in *The Brethren* challenges us to understand more about how the law actually emerges.

A risk of the book is that it will nourish those who want to believe that it is only politics that decides cases. But the negotiation and strategizing that go into forging constitutional law cannot be ignored simply because some will make this error. When one reads of how the Justices rate one another, of the haphazard way in which they decided some death penalty statutes were constitutional and some were not, or of the dilemmas posed by the late Justice William O. Douglas's disability, it is difficult to urge reporters to stay on the far side of Capitol Hill.

The Brethren is like a credible story told by a con man. Style, organization and editing are full of guile but the tale is convincing. Except at its discreditable worst, as in the report of Brennan's conduct in *Moore*, we are swept away by the authors' attention to detail and by their self-confidence. Despite its failure to give the reader the perspective necessary to evaluate the evidence, lawyers who watch the Burger Court will be persuaded by Woodward and Armstrong's story. □

ARYEH NEIER

When Richard M. Nixon became President, it was rumored that he would appoint Associate Justice Potter Stewart to succeed Earl Warren as Chief Justice of the United States. Stewart took himself out of consideration. According to Bob Woodward and Scott Armstrong in *The Brethren*, the reason was not the one Stewart gave to Nixon: that it would damage relations within the Court if one of the Associate Justices were elevated. Stewart's hidden motive, they inform us, was to prevent the public disclosure that his wife had a drinking problem.

It is customary to justify such intrusions on privacy as the price that public figures and their families must pay for seeking the limelight. But that rationale won't do here. If Woodward and Armstrong are accurate—more about accuracy later—Stewart gave up a more prominent spot in the public eye in order to preserve this bit of privacy.* What possible justification could there be for this revelation?

To answer that question one must ascertain the standard that guided the authors in determining what to reveal. As best I can tell, they were guided by the fact that the information had not been disclosed previously. Another way of saying this is that they had no standard.

In their introduction, Woodward and Armstrong invoke both Vietnam and Watergate to remind us that "the often hidden motives of the decision makers can be as important as the decisions themselves." In the same vein, their choice of an epigraph for *The Brethren* is a passage from a speech given by Warren Burger a few months before he was appointed Chief Justice, in which he talked about the need for "careful scrutiny" of a Court that wields "final and unreviewable" power. This is intended to suggest that Woodward and Armstrong are providing us with just the sort of careful scrutiny of hidden motives that we know to be essential in curbing abuses of power. But because our authors lack a standard or rationale about disclosure, what we actually get falls short of "careful scrutiny."

We do get a few valuable revelations. We find out, for example, that a lobbyist for El Paso Natural Gas Company, Tommy "the Cork" Corcoran, attempted to hold off-the-record conversations with Justices Hugo Black and William Brennan (they showed Corcoran the door) and that Burger attempted (unsuccessfully) to change a Court rule in order to grant El Paso a rehearing after the Court ruled against the company in an antitrust case. Revealing such information embarrasses wrongdoers and helps to deter future misconduct. We are also told that Brennan cast

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*I hesitated even to repeat this story, but my doubts were resolved when I saw that *The Brethren* had become the country's number-one best seller. The damage has already been done.

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a deciding vote against a new trial for a man serving a life prison term to avoid offending Justice Harry Blackmun, whose support he was trying to win in other cases. If this is true, Brennan, who may enjoy being a civil libertarian hero, should know that this disclosure diminishes his standing.

Most of *The Brethren*, however, consists of exposing the inconsequential. We get a great deal of information about the give and take on the Court. Woodward and Armstrong provide this in a breathless style, as if it mattered much to find out that the final version of an opinion differed from an early draft or as if we should be astounded that the Justices often persuade one another to switch sides. Actually, the only remarkable thing about these disclosures is that anyone should imagine that the process is otherwise.

Implicit in the discussion of revised opinions is Woodward and Armstrong's discovery that the emperor is naked beneath his regal (legal?) raiment. Most of the Justices are portrayed as lazy, incompetent, devious or some combination of the first three. Their first drafts are poorly written and poorly reasoned. Were they published as is, the Court's reputation would be in tatters. Fortunately for the Justices, they are usually rescued by the critical comments of their brethren or their law clerks. Since the law clerks were Woodward and Armstrong's sources, none of them are portrayed as lazy, incompetent or devious.

Now as it happens, I don't have a high regard for some of the Justices. Yet judging their work on the evidence of their first drafts is unfair. It would be like reviewing Woodward and Armstrong's discarded drafts replete with all the gaffes they managed to correct before *The Brethren* appeared in final form. I dare say that the laziest, most incompetent and most devious Justice wouldn't look so terrible by comparison.

Since Woodward and Armstrong earn their livings as writers, they must know how unfair it is to judge discarded drafts. Why do they do it? Again, the problem is their standard or lack of it. Former law clerks kept copies of drafts and comments on drafts and made them available. Since this material had not been disclosed previously, Woodward and Armstrong publish it, even though it is pointless.

Woodward and Armstrong claim that they interviewed more than 170 former law clerks. It is an astonishing number, as I calculate: nearly nine out of every ten who served the Justices during the seven terms examined in *The Brethren*. The authors don't tell us how many breached confidences, but it must have been a lot. What are we to think of them?

Although I honor whistle blowers like Ernie Fitzgerald, Daniel Ellsberg, Victor Marchetti and Frank Snepp, I cannot muster comparable admiration for the clerks who talked to Woodward and Armstrong. Oh, I was titillated to learn that one Justice refers to Warren Burger as "Dummy," but that isn't the same as finding out about the "cost overruns" for the C-5A plane, the Pentagon Papers or the misdeeds of the Central Intelligence Agency. While the clerks helped Woodward and Armstrong to expose some wrongdoing, with a few exceptions their discoveries are paltry. The clerks apparently went so far as to steal copies of the Justices' diaries. In contrast to such behavior, the whistle blowers I admire revealed only documents that ought to have been made public, and they sacrificed much to inform us. To date, the clerks, like Woodward's Deep Throat, have chosen the safety of anonymity.

Curiously, Woodward and Armstrong appear not to have thought

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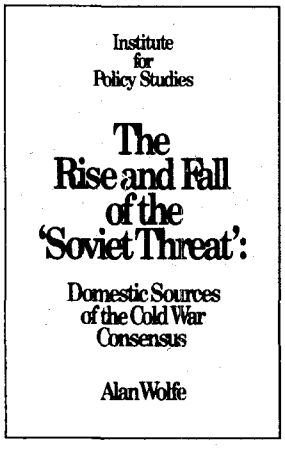

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about the moral implications of soliciting betrayals of confidences on matters such as those reported in *The Brethren.* If they had, their way of acknowledging one of their researchers probably would have been different: "A devoted and resourceful assistant," they write, "no one could have been more loyal and trusted." And they might have expanded a bit on their own pledge to keep the identities of their sources confidential. (Funny, isn't it, that many journalists attach great significance to protecting the confidentiality of their sources but think nothing of getting their sources to violate other people's confidences.)

Relying on the clerks, they also run the risk of inaccuracy. This, at least, is obliquely acknowledged by Woodward and Armstrong when they assure us that "In virtually every instance we had at least one, usually two, and often three or four reliable sources in the chambers of each Justice for each of the seven years we have covered. Where documents are quoted, we have had direct access to the original or to copies." My faith in the reliability of the information garnered in this way would be enhanced if the information that can be checked were more accurate.

Just one example: we are told that Justice William O. Douglas recused himself in *Radich* v. *New York* because the law firm that had defended him against impeachment (by the way, the magazine that became an issue in that impeachment effort was *not* published by Ralph Ginzburg) represented Radich.

The Radich case involved prosecution of the owner of a Madison Avenue art gallery for displaying anti-Vietnam War sculptures in which the American flag was used disrespectfully. Douglas's recusal resulted in a 4-4 decision that affirmed the lower court conviction of Radich. Since the flag was used frequently at that time in war protests, affirmation of *Radich* permitted many prosecutions to go forward. And, because an earlier case had held that speech about the flag could not be punished, the decision suggested that works of art would not get the same First Amendment protection as speech. Douglas's recusal was disappointing because, as the Court's staunchest advocate of free expression, he had been counted on to side with Radich.

If the law firm that defended Douglas *had* been involved, he would have had good ground for recusing himself. In fact, however, that firm was not in the case. Douglas's reasons remain a matter of speculation, though he tried to put such speculation to rest in his autobiography. There, Douglas tells us that the flag aroused such strong emotions in him that he was "sick at heart" when it was desecrated in a protest against the war. Flag desecration, he wrote, "has a more sinister aspect than most violations of law. Our flag is not just a piece of cloth. . . ." Moreover, he says that he had voiced these sentiments in a Washington, D.C., drawing room. In effect, therefore, Douglas's version is that he recused himself because of his emotions and his public declaration. And besides, free-expression advocates should be glad that he recused himself because if he had participated, the Court would have decided the issue definitively against them, and not merely affirmed *Radich,* leaving the principle to be resolved another day. (Eventually, the Court put an end to prosecutions for flag desecration.)

At the time Douglas recused himself, my view was that he wanted to avoid casting the deciding vote upholding flag desecration while the effort to impeach him was still smoldering. A controversy over the flag could have ignited it again. I would have been happy to find another view in *The Brethren* instead of misinformation that could have been easily avoided.

Woodward and Armstrong's method makes several such errors unavoidable and undetectable except to those with first-hand knowledge. Norman Mailer, also dealing with occasionally faulty recollections and also purporting to tell us what was in the minds of his characters, calls *The Executioner's Song* "a true life novel." Perhaps Woodward and Armstrong should have done the same. But that would invite comparisons. Mailer would come out far ahead in meticulousness of research and in sensitivity with confidences. The most damaging comparison would be Woodward and Armstrong's achievement in making seven years in the life of the Supreme Court of the United States seem of less consequence than Mailer's version of nine months in the life and death of a small-time hoodlum. ☐

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Award-Winning Poems

JAY PARINI

ASHES: Poems Old and New. *By Philip Levine. Atheneum. 66 pp. Paper $4.95.*

7 YEARS FROM SOMEWHERE. *By Philip Levine. Atheneum. 70 pp. Paper $4.95.*

Philip Levine may be the best of the generation of poets that grew up during World War II, came of age in the 1950s, and has been writing for twenty years or so. He is certainly among the handful of poets without whom contemporary poetry in America would be much the poorer.

These fairly extravagant claims sound all the more so given Levine's relative obscurity until his second book, *Not This Pig*, appeared in 1968, and indeed, it was not until *The New Yorker* and Atheneum gave him a wide audience that Levine, in a sense, discovered himself. His last book, *The Names of the Lost*, appeared in 1976 and established his presence as a poet of originality, moral concern and vision. And now *Ashes* and *7 Years From Somewhere* (winners of the National Book Critics Circle Award for poetry) confirm everything we had hoped for: a necessary voice, prodigious in volume, consistently good and entirely sui generis.

Ashes reprints thirteen poems from an earlier book, now out of print, and contains thirteen new ones. An autobiographical poet in the explicit sense, Levine invokes the industrial images of a Detroit childhood, of working-class family tensions, of travels in Spain and elsewhere. He can describe a scene with the accuracy that accompanies a bright inward vision:

> From the high hill
> behind Ford Rouge, we could see
> the ore boats pulling
> down river, the railyards,
> and the smoking mountain.
> East, the city spreading

Jay Parini teaches at Dartmouth College and co-edits New England Review. *His book on Theodore Roethke will be published this fall by the University of Massachusetts Press.*

Norman Birnbaum, Blair Clark, Ramsey Clark, Fred Cook, Terrence Des Pres, E.L. Doctorow, Richard Falk, Jules Feiffer, Tom Ferguson & Joel Rogers, Frances FitzGerald, James Goodman & Dorothy Samuels, Philip Green, Christopher Hitchens, Leonard Kriegel, Penny Lernoux, Sanford Levinson, Carey McWilliams, Aryeh Neier, Marcel Ophuls, Nora Sayre, Robert Sherrill, Calvin Trillin, Kurt Vonnegut, Alan Wolfe **write it.**

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toward St. Clair, miles of houses,
factories, shops burning
in the still white snow.

As seen here, Levine writes with an informal clarity and an idiosyncratic tone that combine conversational cadences with an unusual lyric tautness.

Levine moves from description to revelation in his best work, beginning with a vivid image, transforming the image into a resonant symbol. Nature, as Emerson told us, is the symbol of the spirit; for Levine, nature includes factories, transmission shops, gas stations, railroads—all the detritus of urban-industrial living—in addition to the green hills of pastoral verse. Whatever his setting—and the variety will astound—we soon learn to recognize the cadence, the dreamlike atmosphere, the strange weather of aloneness characteristic of his voice. His short lines and abrupt enjambments verge on prose, but they can veer of a sudden into lyric intensity rarely seen these days. Consider the end of "Ashes":

Do you want the earth to be heaven?
Then pray, go down on your knees
as though a king stood before you,
and pray to become all you'll
never be, a drop of sea water,
a small hurtling flame across the sky,
a fine flame of dust that moves
at evening like smoke at great height
above the earth and sees it all.

7 Years From Somewhere fills to the same brim as *Ashes*. The same landscapes occur, similar situations, but the whole book feels even more thoroughly *achieved* than some of Levine's early books. It is as if a corresponding inward intensity of vision has finally met and equaled the brightness of his external vision. There are poems of childhood, such as "Milkweed," a beautiful lyric which in its final stanza moves beyond simple recollection into an awareness of natural cycles. The poet revisits a scene where, as a child, he cut down milkweeds with a carved wooden sword:

Two days ago I walked
the empty woods, bent over,
crunching through oak leaves,
asking myself questions
without answers. From somewhere
a froth of seeds drifted by touched
with gold in the last light
of a lost day, going with
the wind as they always did.

Or in "Snow," for instance, he recalls snow falling in a Detroit street, saying "The snow/which has been falling for hours/is more beautiful than even the spring/grass which once unfurled here/before the invention of steel and fire." A late Romantic, Levine refuses the traditional consolations; he knows that the past cannot be recovered, nor the dead revived; he looks instead to the redemptive power of imagination, which is like the snow in "Snow," at once "nothing" and something of great importance:

It has no melody or form, it
is as though the tears of all
the lost souls rose to heaven
and were finally blessed
with substance and the power of
flight
and given their choice chose then
to return to earth, to lay their
great pale cheek against the burning
cheek of earth and say, There,
there child.

So Levine says "There, there child," for his poems offer us the consolation of achieved form, which is something. Like Robert Frost, another late Romantic, he knows that "earth's the right place for love," that love is unlikely to go better elsewhere. We can be grateful for Levine's presence among us. □

THE GIFT

Praise the snail, sailing across the walk
on her own sea, bobbing. The tenth part
of a blossom in her jaw, she fans
her head, sweeping in this rain
while the shell deflects like a prow.
Genuflecting before cracks, she then moves
on: to the new stalk of begonia, smooth
enough to climb, to the kinked neck
of her mate, to their sea-fight consuming them
both in foam, to the slowest navy setting forth . . .

The moon sets early with its tide, and I have
no place here. The leaves rattle like gulls
preening at once. My walk becomes wind-swept:
I am the giant here, reeling among those
slower than me, surer than the march
of my locked knees in the lines they draw
and leave. Stooping, I offer a finger
to the snail. When it hesitates, I lay
a leaf-carpet down for it to mount,
a wax ocean to sail. I raise her then,
high into first light, buoyed on her rainbow,
the green host. Later, the blood shakes with its gift.

Rick Robbins

FILMS

NORA SAYRE

Like rank breath, television was constantly and quite frantically derided throughout the American movies of the early 1950s: the tired husband in gray flannel would come home after a punishing day at the office to find that his addicted children had no time or words for him, while his house echoed with gunshots and whinnies and the screeching tires of the chase. Hollywood scrupulously informed us that the small screen was rinsing the soul out of family life, that television came between the breadwinner and his intimates, endangered literacy, told lies. The running jokes weren't benign, since the film studios were losing much of their audience to what some teen-agers called "the haunted fish tank," and movie theaters all over the country were closing. And, although most film makers' enmity toward the box flourished many years before *Network*, I'm always amused by the moral fervor with which one entertainment industry denounces another.

The hero of *Being There* wasn't rendered imbecilic by television, he was born mentally deficient—hence the movie isn't drenched with the virtuous indignation that Hollywood usually sprays all over the tube. Jerzy Kosinski wrote the script from his own fable, and

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Hal Ashby directed this reflective film about a middle-aged gardener who can't read or write but is totally sustained by television, from which he learns behavior—how to raise his hat or kiss a woman—and derives all his nourishment: he's lost without a set in front of him. The man has almost no feelings, except hunger and thirst; clearly, death and sex mean much less to him than food or weather. He's not hopelessly retarded, he simply dwells in a special realm. Kosinski views him as "unsane," and Peter Sellers delicately conveys the dignity of a child caged in a mature body as his neat, upright figure moves stiffly through the chaos of the contemporary world, smiling faintly when he watches cartoons or puppets, impervious to the passions or obsessions of the adults who surround him.

Chance hurls the stumblewit into public life and makes him a probable Presidential candidate, and the film flowers into a deft comedy of misunderstandings: when he refers to gardening, others—including the Chief Executive—assume that he's talking about economics: they seize his literal remarks and expand them into metaphors. He's a blank screen—on which everyone projects images of their own creation, and they find him admirably "insightful" when he says that spring follows winter, or that a garden needs a lot of care. Political pundits commend him for being natural because they're certain that "naturalness" has to be a synthetic, a byproduct of calculation—of which this man is incapable. Sometimes, he repeats their words, and they think that he's being profound; as he mimics them, he seems to be saying exactly what they want to hear.

Such a pensive, interior film could have been soporific, but Ashby's use of the TV screen keeps it nimbly dramatic: uproarious or absurd fragments of random programs punctuate the placidity of Sellers's detachment. The film is far funnier than the book, which was a straight-faced satire, and Sellers's talent for pantomime recalls his versatility in films like *Lolita* or *Dr. Strangelove*, before he fell into repetitious roles; he's often at his best when he's playing at solemnity, rather than being a buffoon. Here, Sellers also endows an impassive creature with a sweetness that was absent from the novella; he treads on the edge of pathos, but never plunges into that ravine. And *Being There* is genuinely suspenseful: even if you've read the book, you're apprehensive about what may happen to this helpless person. An acute potential sadness hovers over the narrative; the movie could tap distressful emotions. Few recent films have forced us to worry about someone, or to feel protective toward him even while we're laughing—we're not used to experiencing such feelings in a movie theater, where we're more likely to be frightened or titillated or amazed.

Moreover, it's rather astounding that Ashby and Sellers can draw such varied rhythms out of a one-note character in a single-theme film. I have a couple of mild reservations: Sellers was directed to be too much of a zombie in the last third of the picture, and at times I missed the savagery with which the book ridicules the stupidities of those who foolishly exalt the fool. The movie ends with a superfluous Christ image, but there was no need to make the character holy. However, Ashby has resurrected none of the horrific bathos of his *Harold and Maude*, or any traits from his overwrought *Shampoo*; instead, *Being There* perpetuates the sensitivity of the better moments of Ashby's *Coming Home*, and the cast that frames Sellers is practically perfect. Shirley MacLaine is as cordial to confusion as she was in *The Trouble With Harry* more than twenty years ago; whether she retains or forfeits her aplomb, a salty, durable self-mockery keeps her persona afloat. Melvyn Douglas is outstanding as a dying tycoon: depicting the enervation of one who once had abundant energies, he reveals the remnants of his powers; the characterization is unusual for Hollywood, where businessmen tend to emerge as louts or bores. And it's always a boon to have a glimpse of Richard Basehart; as the Russian Ambassador to Washington, he's wonderfully silken and conspiratorial, while Jack Warden has all the lumbering malaise of a President who may not be renominated. Meanwhile, I'm elated to see such a literate movie succeed, and its wit challenges the flying cutlery and sooty holes and mirthless farces of midwinter.

If you yearn, as I do, for a Melvyn Douglas festival, you've probably been attending the superb Lubitsch series at the Thalia in Manhattan (which will continue until February 28). That most graceful of ironists made the transition from the dinner jackets of the 1930s to the character roles of the last two decades without the apparent contortions

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that afflict many actors in midcareer. Whether he was getting drunk with the butler—in the comedies of the 1930s, almost any crisis could be dissolved in alcohol—or huskily courting a reticent woman, or snorting bitterly when angry, or uttering lines like "Why do moths fly hundreds of miles to find their mates?" no one could more eloquently thrust his hands into his pockets while pacing, or fall off a chair with such finesse.

Despite the obligatory gloves and cane, there was an earthiness that fortified him against sleekness—his elegance had fiber. And he excelled at staring: the baleful or magnetic intensity with which he focused on the object of exasperation or desire should be studied by those who must submit to close-ups. In a Douglas movie, failing to enjoy life was almost a crime: his presence in a film made a priority of pleasure, and that was cheering to audiences of the Depression. Nose-to-nose with Garbo in *Ninotchka*, his ultimate urbanity contesting her glacial austerity, he sailed through the celestial dialogue of Billy Wilder and Charles Brackett as though he were hardly conscious of making history. Testy or rueful, enraptured or astonished, he was and is one of Hollywood's choicest gifts to the generations —whatever the blights of the industry, we can celebrate almost fifty years of Melvyn Douglas. □

ART

LAWRENCE ALLOWAY

The concept of the avant-garde has changed. The Italian Futurists or the Parisian Surrealists were strengthened by their sense of community, but since World War II the incidence of such groups has lessened. Significantly, there were no Abstract Expressionist or Pop Art *movements* as such. The artists in question were never tempted to consolidate; on the contrary, they all stressed diversification. Now we find that there are broad tendencies rather than identifiable movements—conceptual art, say, or women's art instead of specific programs like Futurism or Surrealism. At present the concept of the avant-garde functions mainly in relation to individual genius.

Three major museum exhibitions have brought the cult of genius as applied to living artists to a climax: Joseph Beuys (recently at the Guggenheim Museum), Andy Warhol (recently at the Whitney Museum of American Art) and Clyfford Still (Metropolitan Museum, until February 3). Still typifies the messianic individualist; Beuys the connection of the avant-garde and the underworld, and Warhol is chic. Still wishes us to see his work as that of the one just man who can save the city. Beuys's works seem like survivors' toys or materials on the edge of disappearance into waste. Warhol's art is the climax of Baudelaire's definition of modernity as that which is "ephemeral, fugitive, contingent upon the occasion."

It is sometimes assumed that abstract art is without content, a notion derived from the success of formalist art criticism, but actually abstract art is often semantically ambitious. This is true of the first generation of abstract art—Malevich, Kandinsky and Mondrian, and no less true of Barnett Newman, Mark Rothko and Still. Still's paintings are on a scale suitable for the Met's galleries; they are numerous and they are large: big planes of dominant color streaked or nicked by other colors or related in patches like breaking ice floes. The artist regards his art as the record of a life that when grasped amounts to a moral lesson for us all. He has written that "the work had to be carried on in aloneness and with ruthless purpose" and that it "could not have existed without a profound concern to achieve a purpose beyond vanity, ambition or remembrance." It is the classic position of the solitary artist rejecting for his art all contaminating contacts with a trivial society.

There is a double underworld in Beuys's work: the first is the realm of detritus, raw matter and materials in the process of either quick change (beeswax or tallow) or slow transformation (felt); the other has to do with extinction and death. One group of his withered, darkened and torn objects, for example, is called "Auschwitz" and the copious literature on Beuys, which he controls as tightly as Still does, often refers to his contribution to World War II (dive bomber pilot in the *Luftwaffe*). The monochromatic stain that seemed to permeate the work at the Guggenheim suggests both criminal history and a descent to hell.

According to Beuys, anybody can be an artist provided creativity is not limited to the traditional forms of fine art. He argues that art is democratic since humble materials are accessible to all. The practice of "democratic" art is important because "only art is capable of dismantling the repressive effects of a senile social system that continues to totter along the deathline." The notion that art can induce social change is as dear to the avant-garde as it is unproved. Beuys's charismatic presence and reform program have a large following in Europe, including Caroline Tisdall, the writer of the show's catalogue. According to her, "one idea that caught the imagination of economists and artists alike was Beuys's attempt to give a radically new description to the concept of money." For all their differences, Still and Beuys have in common an exaggeration of the power of art: their esthetics and their audiences are probably irreconcilable, but both overestimate their own profession.

Andy Warhol, on the other hand, underestimates it. His "Portraits of the 70s," curated by David Whitney, is a cheap and cheerful array of likenesses. They are the descendants of his media women of the early 1960s—Marilyn Monroe, Elizabeth Taylor, Jacqueline Kennedy. Warhol saw them as a fan would, radiant and remote, but soon adapted the technique to the requirements of commissioned portraiture (collectors' wives, art dealers, businessmen). The new portraits are all paired, so that the person appears twice, in identical photographic images diversified by color changes. It is the disco-doppelgänger effect, and Warhol's portraits are not really of sitters, that is, of people with whom an artist enters into a reciprocal relationship.

The brilliant balance between the lyrical and the common which he achieved in the early Marilyns is missing from the new work. Probably the best paintings are those of Irving Blum and they are the earliest: here there is an attempt to relate the photographic image and its manual elaboration, but in most of them perfunctory likeness and arbitrary tinting have no relation to each other. Warhol's idle picture-making reminds us that the avant-garde, usually discussed in terms of artists' alienation from society, has another aspect, the connection to fashion.

The image of Marilyn Monroe is culturally evocative, but the later portraits are of simpler personalities reduced in these portraits to trendy stereotypes, as for readers of *People* magazine. Warhol

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has lost his credibility as an artist and his second big exhibition at the Whitney shows it. His cool has been emptied of its original significance; it once had the sting of insolence, but as used now expresses simple conformity. □

TELEVISION

PETER SOURIAN

Beginning February 4, with Ring Lardner's *The Golden Honeymoon*, and lasting for thirteen successive Monday evenings, the Public Broadcasting Service will present dramatizations of seventeen American short stories, produced by Robert Geller, president of Learning in Focus Inc. The first eight of these are new; the rest are reruns of the original series shown initially in 1977. "These outstanding films faithfully convey to a wide audience some of the most important works in American literature," says Joseph D. Duffey, chairman of the National Endowment for the Humanities (which paid a lot of the freight), making you feel as if the originals were as inaccessible as medieval Latin poetry.

Can it really be so hard to read Hemingway's *Soldier's Home* that we need it dramatized on TV? I'm no speed ace, but I just read the story in ten minutes flat, whereas the TV version limps through it with a grim faithfulness in forty-five, reminding us, among other things, that Hemingway's dialogue is really stylized speech and not meant to be spoken. Now if you're a literal-minded fellow like myself you are going to expect at least four-and-one-half times more value from the longer TV version.

But you don't get it. The stale, convenient cliché of newsreel footage intercut for the purpose of letting us know that War is Hell does not, for example, match the relevant passage from Hemingway: an eleven-word list of the great European battles which Harold Krebs somehow managed to survive. Nor does the camera, focused dutifully on Krebs's breakfast plate while his mother says, "I pray for you all day long, Harold," begin to equal Hemingway's terse, precise objective correlative: "Krebs looked at the bacon fat hardening on his plate." Such comparisons make one begin to suspect that prose may be the coming thing.

The faithfulness which N.E.H.'s chairman Duffey lauds can, after all, be feckless or easy, making a little infidelity seem to flame with difficult virtue. In the best-foot-foward lead show, *The Golden Honeymoon*, for example, those fine actors, James Whitmore and Teresa Wright, take imaginative liberties by playing off rich and subtle varieties of facial and bodily expression against what they are saying; they make the film more complex than the original.

Acting can, of course, rescue such a venture, and again in *Paul's Case* (February 11), where Willa Cather stresses the importance of Paul's *look*, the excellent casting of Eric Roberts intensifies the progress of the unhappy tale. Katherine Anne Porter's *The Jilting of Granny Weatherall* (March 3), is also interesting for the work of actresses Geraldine Fitzgerald and Lois Smith as mother and daughter.

James Thurber's *The Greatest Man in the World* (February 18) with its portrait of Lindbergh's rival, the horrible garage mechanic from Westfield, Iowa, Jack "Pal" Smurch, is genuinely enjoyable. The first time I read this story many years ago was the first time I had ever laughed aloud when alone. I didn't laugh as much watching the film, but I did find that this version—unlike Thurber's story itself—concerns the corrupt relationship between the press and the establishment in this country. Some viewers may feel that the connection the film draws is too heavy-handed; still, Howard da Silva is a treat to watch as a cynical editor—one of several characters usefully added to the original story.

The courage to take risks such as adding characters can be contrasted with the mindless faithfulness in the version of Hawthorne's *Rappaccini's Daughter* (February 25). It's one thing for Hawthorne, writing in 1844 about Renaissance Italy, to report that Rappaccini's daughter says: "Giovanni! It is past the hour! Why tarriest thou?" It is another for a young actress to utter similar phrases in an American accent in the year 1980.

The last new film of the series, Faulkner's *Barn Burning* (March 17) is too carefully restrained. It stops short of the romantically poetic final paragraph of the original, disregarding its obligation to invent a film counterpart to Faulkner's lyric rendering of young Sarty's state of mind after his father dies.

With nice exceptions, these dramatizations have the limitations and virtues of dutifulness, carefulness. Maybe that's what happens when you have one eye on grant money: maybe you have to convince the chairman that you're a responsible fella. I think that the most fruitful working relationship TV can have to literature may exist outside adaptation or dramatization. Rather than watch *Barn Burning* when we can easily read it, why not have instead *Faulkner: A Life on Paper*, the two-hour PBS documentary shown last December. In that film, along with a privileged look at Faulkner's own skillful drawings, you got what TV can give so readily: images. You met a number of the important people from Faulkner's life. Perhaps even more usefully, you got a bit of the local color—a drugstore, field hands unloading a wagon, hounds yapping, Faulkner mailing a letter, his house.

The other literary experience I would really enjoy on TV is discussion at length of specific literary works by gifted, passionate, and preferably somewhat contentious, committed critics. Carefulness seems at least momentarily rampant. □

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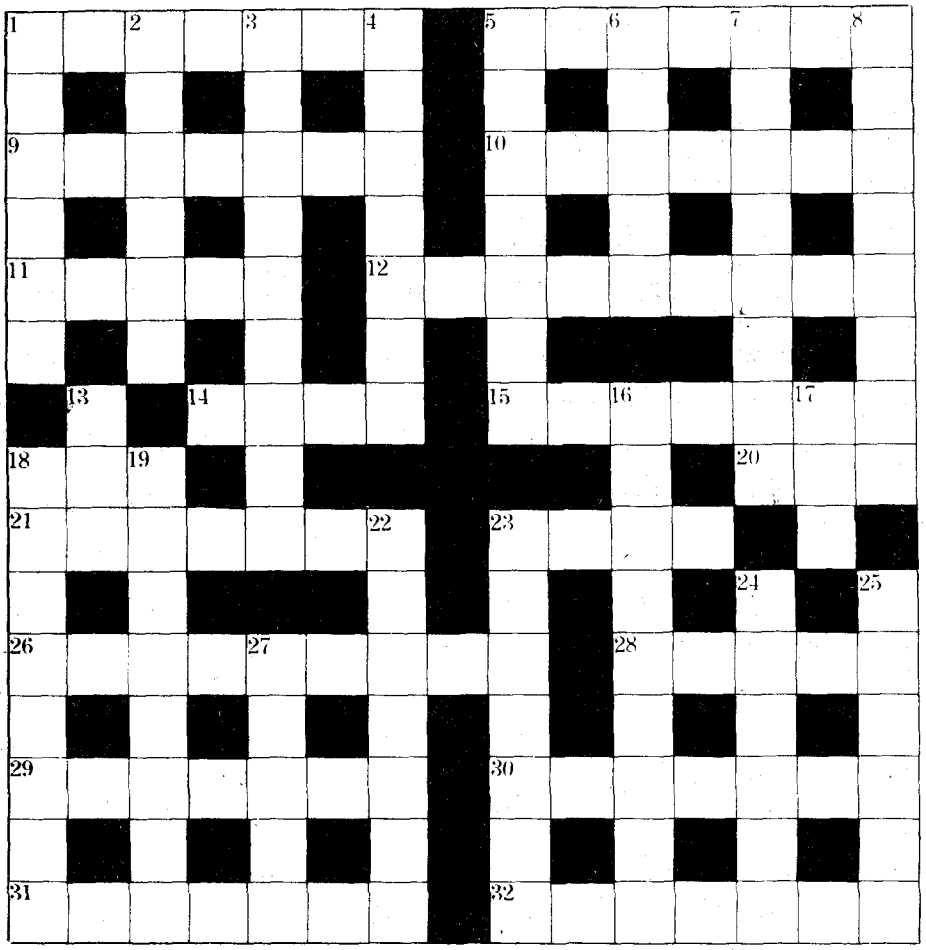

ACROSS

1 Softly! 23-26 in the carriage! (7)
5 Both the most valuable and the most criminal might be well this. (7)
9 No agent is uncertain concerning such capacity. (7)
10 The girl has to phone back for a coat, possibly. (7)
11 With such large amounts in bad shape? (5)
12 The jumbo category, as you can easily see. (5,4)
14 See 27 down
15 You might hear one makes joint signatures according to certain ratios. (7)
18 We were asked if we did, with John the hunter. (3)
20 The right command for certain animals. (3)
21 Was 13 tied in a knot? (7)
23 and 26 The first step in warm-ups (if you don't frown on such splits). (4,3,4,2)
28, 1 down and 18 down Something should soon be brewing with the air of the nursery like this. (5,3,3,6,2)
29 At least she arranged to have her mother taken care of! (7)
30 Roll back on one's head? (7)
31 Is it material for a girl to get enthusiastic? (7)
32 The sound of swans and seals. (7)

DOWN

1 See 28 across
2 Literary production won't come up again. (6)
3 Not so blissful when public! (9)
4 With some sewers they are almost unnecessary. (7)
5 When fuel starts trickling, it relates to your stomach. (7)
6 Popular, but non-U, to exist in drink. (5)
7 Passing around the up-coming drink of 6, having a slowing effect. (8)
8 Iron out the wrinkles by a process of growing less? (8)
13 Possibly denoted by the 13th or 6th letters on the form. (3)
16 Something to hold your arm steady if you get to stumble in it with the young. (9)
17 Reeling without the circle, being caught, perhaps. (3)
18 See 28 across
19 Write the letters of this down. (8)
22 Not a good trade-in to get off 3, of a sort. (7)
23 Six more than the pack will hold, if top-rank, and many hold hands with such. (7)
24 Look quickly, and go off in one direction. (6)
25 If he's any bothered, they seem to laugh a lot. (6)
27 and 14 Whatever the French call a gatepost, it might be included! (5,4)

SOLUTION TO PUZZLE NO. 1805

ACROSS: 1 Hot and bothered; 9 Radical; 10 Keepers; 11 Openly; 12 Acrylics; 14 Toccata; 15 Logic; 17 Gusts; 19 Eugenic; 21 and 4 Chastity belt; 23 Plural; 25 Piecing; 26 Bear cat; 27 A sight to behold. DOWN 1 Harrowing; 2 Tidiest; 3 Necklaces; 5 Take charge; 6 and 22 Everything; 7 Evening; 8 Isis; 13 Watertight; 15 Lend-lease; 16 Completed; 18 Sea-legs; 20 Curacao; 21 Cape; 24 Ebro.

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And as little people we haven't had the power to fight back effectively.

The Giants are too big.

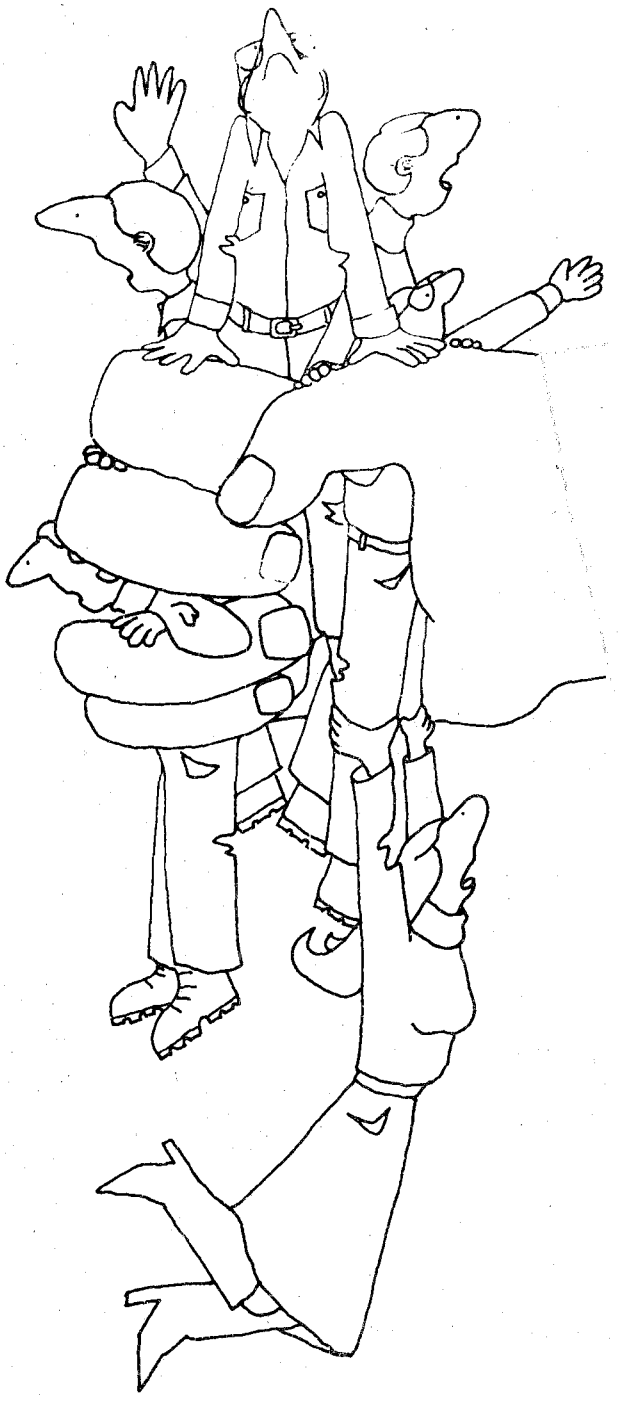
Corporate ripoffs cost the public over $200 billion a year, a Senate subcommittee estimates. Even the U.S. Chamber of Commerce admits that every year American firms commit Crimes in their Suites totalling $40 billion. Investigations have uncovered union-busting efforts, increasing hazards on the job, inadequate toxic waste disposal and additional air and water pollution.

To protest these abuses we have named April 17, 1980 national **Big Business Day**.

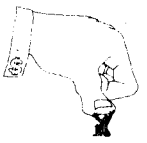
Join the growing coalition of labor, church, consumer, women's, minority and environmental groups in turning around our country in the 80's. Join us in discussing the alternatives—

- consumer co-ops
- credit unions
- small businesses
- Corporate Democracy Act of 1980.

Help us organize teach-ins, film festivals, demonstrations and other activities in your area. Help us make April 17, 1980 the end to Business As Usual.



Big Business Day
1346 Connecticut Avenue, NW
Room 411
Washington, DC 20036
(202) 861-0456



Yes, I want to help fight Crime in the Suites.
☐ Let me know how I can participate in Big Business Day.
☐ I want to be a local coordinator.
☐ Here's my check for _____ to make Big Business Day a success.

Name _____ Phone _____

Address _____

City _____ State _____ Zip _____

BIG BUSINESS DAY April 17, 1980

Among the initiators of Big Business Day are: RALPH NADER (*Consumer advocate*), JOHN KENNETH GALBRAITH (*Prof. Emeritus, Harvard University*), WILLIAM H. WYNN (*Pres., United Food and Commercial Workers*), DOUGLAS A. FRASER (*Pres., United Automobile, Aerospace, and Agricultural Implement Workers of America*), PATSY J. MINK (*Pres., Americans for Democratic Action*), JAMES FARMER (*Exec. Dir., Coalition of American Public Employees*), ED ASNER (*Actor*), CAESAR CHAVEZ (*Pres., United Farm Workers of America*), BISHOP THOMAS GUMBLETON (*Auxiliary Bishop, Archdiocese of Detroit*), JOYCE MILLER (*Pres., Coalition of Labor Union Women*), ARTHUR SCHLESINGER, JR. (*Albert Schweitzer Prof. of Humanities, City University of New York*), RABBI MARC TANENBAUM (*American Jewish Committee*), WILLIAM W. WINPISINGER (*Inter. Pres., International Association of Machinists and Aerospace Workers*), JERRY WURF (*Pres., American Federation of State, County, and Municipal Employees*). Institutional affiliation for identification purposes only.

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